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Legislative Document (1982) No. 90

STATE OF NEW YORK

Report
of
The Chief Administrator of the Courts

For the Calendar Year
January 1, 1981 — December 31, 1981

Court of Appeals

Lawrence H. Cooke, *Chief Judge*

Matthew J. Jasen	Sol Wachtler
Domenick L. Gabrielli	Jacob D. Fuchsberg
Hugh R. Jones	Bernard S. Meyer

Chief Administrative Judge of the Courts

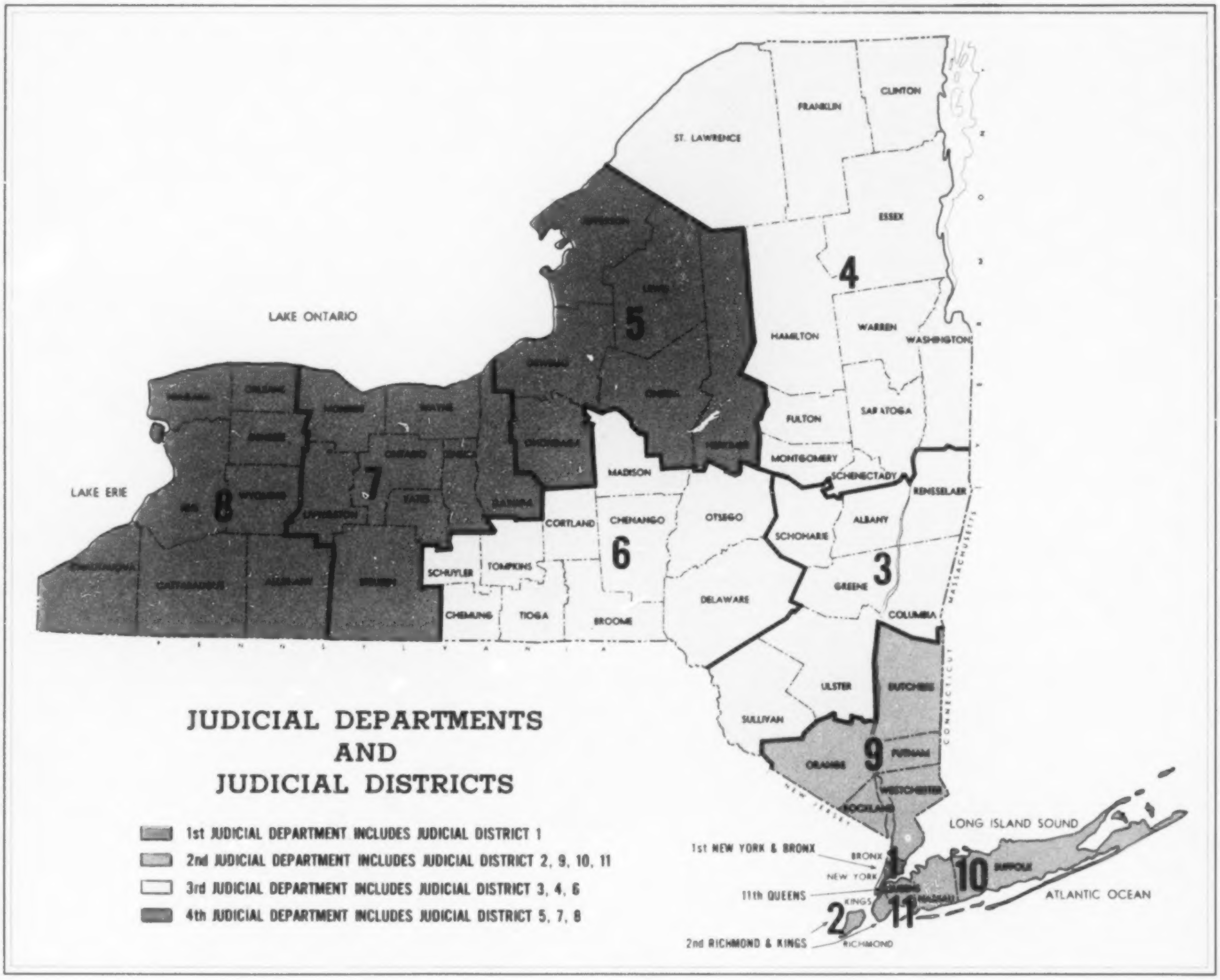
Herbert B. Evans

Administrative Board of the Courts

Lawrence H. Cooke, *Chairman*

Francis T. Murphy, Jr.	A. Franklin Mahoney
Milton Mollen	Michael F. Dillon

STATE OF NEW YORK
OFFICE OF
COURT ADMINISTRATION


JUDICIAL DEPARTMENTS
AND
JUDICIAL DISTRICTS
1st JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 1
2nd JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 2, 9, 10, 11
3rd JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 3, 4, 6
4th JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 5, 7, 8
LAKE ONTARIO
LAKE ERIE
ST. LAWRENCE
FRANKLIN
CLINTON
ESSEX
4
HAMILTON
WARREN
WASHINGTON
FULTON
SARATOGA
MONTGOMERY
SCHENECTADY
RENSSELAER
ALBANY
SCHOHARIE
GREENE
3
COLUMBIA
JEFFERSON
LEWIS
5
OSWEGO
ONEIDA
ONONDAGA
HERKIMER
NIAGARA
ORLEANS
MONROE
WAYNE
GENESEE
ONTARIO
SENECA
CAYUGA
7
WYOMING
LIVINGSTON
YATES
ERIE
8
CHAUTAUQUA
CATTARAUGUS
ALLEGANY
STEUBEN
MADISON
CORTLAND
CHENANGO
OTSEGO
6
SCHUYLER
TOMPKINS
CHEMUNG
TIOGA
BROOME
DELAWARE
PENNSYLVANIA
MASSACHUSETTS
ULSTER
DUTCHESS
SULLIVAN
CONNECTICUT
ORANGE
9
PUTNAM
WESTCHESTER
ROCKLAND
NEW JERSEY
LONG ISLAND SOUND
1st NEW YORK & BRONX
BRONX
1
NEW YORK
10
SUFFOLK
11th QUEENS
QUEENS
KINGS
NASSAU
11
ATLANTIC OCEAN
2
2nd RICHMOND & KINGS
RICHMOND

Letter of Transmittal

To:

THE HONORABLE HUGH L. CAREY, Governor of the State of New York,
and
The Legislature of the State of New York:

Pursuant to Section 212(j) of the Judiciary Law, I submit this annual report on the activities and state of the unified court system in 1981.

Herbert B. Evans
Chief Administrative Judge
of the Courts

March 15, 1982

COURT OF APPEALS

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Matthew J. Jasen
Domenick L. Gabrielli
Hugh R. Jones
Sol Wachtler
Jacob D. Fuchsberg
Bernard S. Meyer

ADMINISTRATIVE BOARD OF THE COURTS

Lawrence H. Cooke, *Chairman*

Francis T. Murphy, Jr.
Milton Mollen
A. Franklin Mahoney
Michael F. Dillon

Please Do Not Destroy or Discard This Report.

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Preface

This is the Fourth Annual Report of the Chief Administrator of the Courts. It is submitted pursuant to section 212(j) of the Judiciary Law and covers the period from January 1, 1981 through December 31, 1981.

This report is the fourth in a series that succeeded the annual reports of the Administrative Board of the Judicial Conference, the Judicial Conference, and the Office of Court Administration. The latter, in turn, had succeeded the annual reports of the Judicial Council.

The report consists of six chapters. Chapter 1 describes the objectives, the structure, the administration and the financing of the courts in New York State. Chapter 2 discusses the progress of the courts in complying with the standards and goals for the timely disposition of cases adopted by the Judiciary on July 3, 1975 (see Chapter 2 of the 21st Annual Report of the Administrative Board). Chapter 3 presents statistics on court operations in calendar year 1981.

Chapter 4 discusses six special programs: (a) the Mental Health Information Service, (b) the central index for post-conviction applications, (c) retainer and closing statements, (d) compulsory arbitration programs, (e) statements of appointment and of fees or commissions under section 35-a of the Judiciary Law, and (f) grievance committee activities.

Chapter 5 reports on education and training programs conducted, coordinated or assisted by the Office of Court Administration in 1981.

Chapter 6 summarizes (a) the legislation sponsored by the Office of Court Administration at the 1981 session of the Legislature and (b) rules revised or added during that year. It includes the *1982 Report of the Advisory Committee on Civil Practice to the Chief Administrator of the Courts of the State of New York*, the *1982 Report of the Advisory Committee on Criminal Law and Procedure to the Chief Administrator of the Courts of the State of New York*, the *1982 Report of the Family Court Advisory and Rules Committee to the Chief Administrator of the Courts of the State of New York*.

All numbered statistical tables appear at the end of the chapter in which they are cited.

Acknowledgment

The Chief Administrator of the Courts gratefully acknowledges the assistance and cooperation extended to him and to the Office of Court Administration during the past year by the Governor and his staff, members of the Legislature, members of the Judiciary, court personnel, bar associations, and individual lawyers and laypersons.

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Chapter 1

The Courts

The *Judiciary* is one of the three branches of New York State Government. The powers and the structure of the New York State Judiciary are embodied in Article VI of the State Constitution. Article VI was approved by the voters in the 1961 election and became operative September 1, 1962, effecting the first court reorganization in New York since 1894. Article VI provides for a "unified court system for the state", specifies the organization and the jurisdiction of the courts in the state, and establishes the method of selection and removal of judges and justices.

Article VI also provides for the administrative supervision of the courts. And since April 1, 1978, under a court reform constitutional amendment approved by the people in November 1977, the responsibility and the authority for that function have been vested in the Chief Judge of the Court of Appeals, who is the Chief Judge of the State.

The Judiciary (1) provides a forum for the peaceful, fair and prompt resolution of (a) civil claims and family disputes, (b) criminal charges and charges of juvenile delinquency and (c) disputes between citizens and their government and challenges to governmental actions; (2) determines the legality of wills, adoptions, uncontested divorces and other undisputed matters submitted to the courts for review and approval; (3) provides legal protection for children, mentally ill persons and others entitled by law to the special protection of the court; and (4) regulates the admission of lawyers to the Bar and their conduct and discipline.

1.1 Court Structure

In New York State the courts of original jurisdiction, or trial courts, hear a case in the first instance, and the appellate courts hear appeals from the decisions of other tribunals.

The *appellate courts* are the Court of Appeals, the Appellate Divisions and the Appellate Terms of the Supreme Court, and the County Courts acting as appellate courts. The *trial courts* of superior jurisdiction are the Supreme Court, the Court of Claims, the Family Court, the Surrogates' Courts and, outside New York City, the County Courts. The trial courts of lesser jurisdiction are the Criminal Court and the Civil Court of the City of New York and, outside New York City, City Courts, District Courts and Town and Village Justice Courts.

The appellate structure of these courts is shown in Figures 1-a and 1-b.

The *Court of Appeals* is the highest court of the state. It consists of the Chief Judge and six Associate Judges. They are appointed by the Governor for 14-year terms, with the advice and consent of the Senate, from among persons found to be well-qualified by the Commission on Judicial Nomination. Five members of the Court constitute a quorum, and the concurrence of four members is required for a decision.

The jurisdiction of the Court is limited by Section 3 of Article VI of the Constitution to the review of questions of law, except in a criminal case in which the judgment is of death or a case in which the Appellate Division, in reversing or modifying a final or interlocutory judgment or order, finds new facts and a final judgment or order is entered pursuant to that finding. An appeal may be taken directly from the court of original jurisdiction to the Court of Appeals from a final judgment or order in an action or proceeding in which the only question is the constitutionality of a state or Federal statute. In other matters, the Constitution provides that certain types of cases can be taken to the Court of Appeals as a matter of right, while in still other cases an appeal to the Court of Appeals may be taken only with the leave of a justice of the Appellate Division or a judge of the Court of Appeals or upon the certification of the Appellate Division or the Court of Appeals.

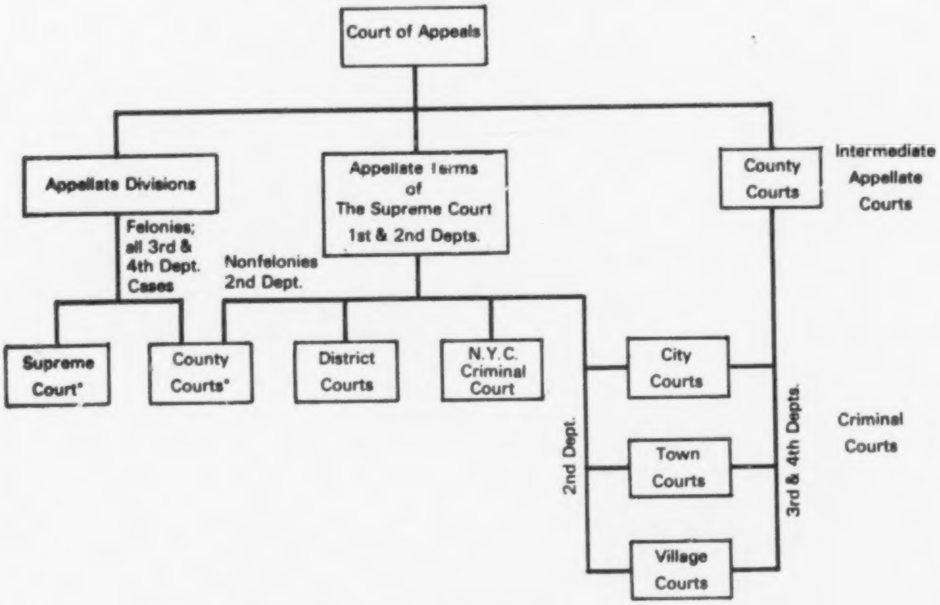
The Court also hears appeals from determinations of the State Commission on Judicial Conduct.

The *Appellate Divisions of the Supreme Court* are established in each of the state's four judicial departments (see the map at the front of this report). Their responsibilities include:

- Resolving appeals from judgments or order of the courts of original jurisdiction in civil and criminal cases and reviewing civil appeals taken from the Appellate Terms.
- Conducting proceedings to admit, suspend, or disbar lawyers.

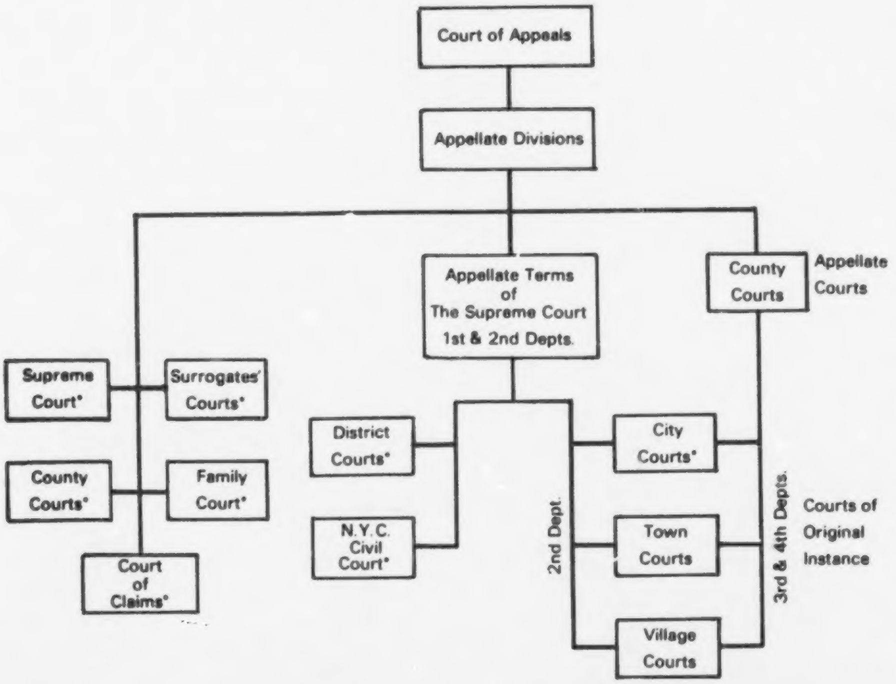
Each Appellate Division has jurisdiction over appeals from judgments and from final and some intermediate orders rendered in countylevel courts and original jurisdiction over selected proceedings. Where established by the Appellate Division, *Appellate Terms* exercise jurisdiction over civil and criminal appeals from various local courts and certain criminal appeals from the County Courts in the Second Judicial Department.

Figure 1-a
NEW YORK STATE JUDICIAL SYSTEM
Criminal Appeals Structure


Court of Appeals
Appellate Divisions
Appellate Terms of The Supreme Court 1st & 2nd Depts.
County Courts
Intermediate Appellate Courts
Felonies; all 3rd & 4th Dept. Cases
Nonfelonies 2nd Dept.
Supreme Court*
County Courts*
District Courts
N.Y.C. Criminal Court
City Courts
Town Courts
Village Courts
2nd Dept.
3rd & 4th Depts.
Criminal Courts

*Appeals involving death sentences must be taken directly to the Court of Appeals.

Figure 1-b
NEW YORK STATE JUDICIAL SYSTEM
Civil Appeals Structure


Court of Appeals
Appellate Divisions
Appellate Terms of The Supreme Court 1st & 2nd Depts.
County Courts
Appellate Courts
Supreme Court*
Surrogates' Courts*
County Courts*
Family Court*
Court of Claims*
District Courts*
N.Y.C. Civil Court*
City Courts*
Town Courts
Village Courts
2nd Dept.
3rd & 4th Depts.
Courts of Original Instance

*Appeals from judgments of courts of record of original instance that finally determine actions where the only question involved is the validity of a statutory provision under the New York State or United State Constitution may be taken directly to the Court of Appeals. Only some of the City Courts are courts of record.

As prescribed by Section 4, Article VI of the Constitution, justices of the Supreme Court are designated to the Appellate Divisions by the Governor. The Governor designates the Presiding Justice of each Appellate Division, who serves for the length of his or her term of office as a justice of the Supreme Court. Associate justices are designated for five-year terms or for the remainder of their terms of office, whichever period is shorter.

The *Supreme Court* has unlimited, original jurisdiction, but it generally hears cases outside the jurisdiction of other courts, such as:

- Civil matters beyond the financial limits of the lower courts' jurisdiction;
- Divorce, separation, and annulment proceedings;
- Equity suits, such as mortgage foreclosures and injunctions; and
- Criminal prosecutions of felonies and indictable misdemeanors in New York City.

Supreme Court justices are elected by judicial district for 14-year terms.

The *County Court* is established in each county outside New York City. It is authorized to handle criminal prosecution of offenses committed within the county, although in practice, most minor offenses are handled by lower courts. The County Court also has limited jurisdiction in civil cases generally involving amounts up to $10,000.

County Court judges are elected in each county for terms of 10 years.

The *Surrogate's Court* is established in every county and hears cases involving the affairs of decedents, including the probate of wills and the administration of estates, and adoptions.

Surrogates are elected for terms of 10 years in each county outside New York City and for terms of 14 years in each county in New York City.

The *Family Court* is established in each county and the City of New York to hear matters involving children and families. The principal types of cases it hears include:

- Juvenile delinquency;
- Child protection;
- Persons in need of supervision;
- Review and approval of foster-care placements;
- Paternity determinations;
- Family offenses;
- Adoptions (concurrent jurisdiction with Surrogate's Court); and
- Support of dependent relatives.

Family Court judges are elected for 10-year terms in each county outside New York City and are appointed by the Mayor for 10-year terms in New York City.

The *New York City Civil Court* tries civil cases involving amounts up to $10,000. It includes a Small Claims Part for informal disposition of matters not exceeding $1,500 and a Housing Part for housing-code violations. New York City Civil Court judges are elected for 10-year terms. In addition to Civil Court judges, special Housing judges are appointed for 5-year terms to sit in Housing Parts. They are not, however, constitutional judges. The appointments are made by the Administrative Judge of the Civil Court.

The *New York City Criminal Court* conducts trials of misdemeanors and violations. Criminal Court judges also act as arraigning magistrates for all criminal offenses. New York City Criminal Court judges are appointed by the Mayor for 10-year terms.

There are four kinds of courts of lesser jurisdiction outside New York City: *District, City, Town* and *Village Courts*. These four courts handle minor civil and criminal matters. The methods of selection and the terms of office of judges of these courts vary throughout the state.

The *Court of Claims* is a special trial court that hears and determines claims against the State of New York. Court of Claims judges are appointed by the Governor, with the advice and consent of the Senate, for nine-year terms. (See Table 1 for the authorized number of judges in the State Judiciary.)

1.2 Court Administration

Section 28 of Article VI of the State Constitution provides that the Chief Judge of the Court of Appeals is the Chief Judge of the State and its chief judicial officer. The Chief Judge appoints a Chief Administrator of the Courts (who is called the Chief Administrative Judge of the Courts if the appointee is a judge) with the advice and consent of the Administrative Board of the Courts. The Administrative Board consists of the Chief Judge as chairman and the Presiding Justices of the four Appellate Divisions of the Supreme Court.

The Chief Judge establishes statewide administrative standards and policies after consultation with the Administrative Board of the Courts and promulgates them after approval by the Court of Appeals.

The Chief Administrator, on behalf of the Chief Judge, is responsible for supervising the administration and operation of the trial courts and for establishing and directing an administrative office for the courts, called the Office of Court Administration (OCA). In this task, he is assisted by two Deputy Chief Administrative Judges, who supervise the day-to-day operations of the trial courts in New York City and in the rest of the state, respectively; a Deputy Chief Administrator, who supervises the operations of the units that make up the Office of Management Support; and a Counsel, who directs the legal and legislative work of the Counsel's Office.

The Office of Management Support provides the administrative services required to support all court and auxiliary operations. These services include personnel and budget administration; program systems and facilities management and planning operations; educational programs for judges and nonjudicial personnel; statistical and information services; employee relations; equal employment opportunity programs; and the Community Dispute Resolution Centers Program.

Counsel's Office prepares and analyzes legislation, represents the Unified Court System in litigation, and provides various other forms of legal assistance to the Chief Administrator of the Courts.

Chapter 156 of the Laws of 1978 implements the constitutional provisions on the administrative supervision of the court system. Sections 211-213 of Article 7-A of the Judiciary Law set forth the administrative functions of the Chief Judge, the Chief Administrator, and the Administrative Board. (See Figure 2.)

1.3 Court Finances

For the New York State fiscal year ending March 31, 1982, the anticipated expenditures for operating all the state courts, except town and village justice courts, were $482.5 million.

1.4 Key Developments in the Unified Court System

A number of significant improvements were made in the operations of the courts and in the administration of the Unified Court System in 1981. Discussed below, they demonstrate the Judiciary's strong, continuing commitment to making maximum use of limited resources at a time of increased caseloads and fiscal restraint in order to realize the promise of fair and speedy justice for all citizens.

1.4.1 The Plans to Reduce Court Congestion and Delay

Criminal Cases

The number of felony indictments continued to increase in 1981. For the year, filings increased by 6,554 cases, or 18.7 percent, statewide, compared with the same period in 1980. The comparable increase in New York City was 3,194 cases, or 16.3 percent. In the six other big urban and suburban counties (Suffolk, Nassau, Westchester, Onondaga, Monroe, and Erie), the increase was 2,948 cases, or 38.5 percent. And in the rest of the state, filings increased by 412 cases, or 5.3 percent.

In response to those increases, the Chief Judge announced, on March 18, 1981, the start of a special effort under which 45 justices in New York City were transferred, in three stages, from civil parts to criminal parts of Supreme Court. The transfers, which brought to 169, the most ever, the number of justices sitting in the criminal division of the Supreme Court in the city, were made possible by the progress that had been made in reducing civil case backlogs in Supreme Court under the Chief Judge's Civil Plan (see below).

On May 18, 1981, the Chief Judge announced the start of a second special criminal effort, to deal with a 40 percent increase in indictments filed in Suffolk County and a 58 percent increase in indictments filed in Westchester County. Under the plan, 30 additional felony terms were established for the remainder of the year through the transfer of upstate judges to the two target counties.

In 1981, the number of felony indictments disposed of increased by 19.1 percent statewide, compared with the same period of 1980. The corresponding increase in New York City was 22.3 percent; in the six other large urban and suburban counties, 23.6 percent, and in the rest of the state, 6.9 percent.

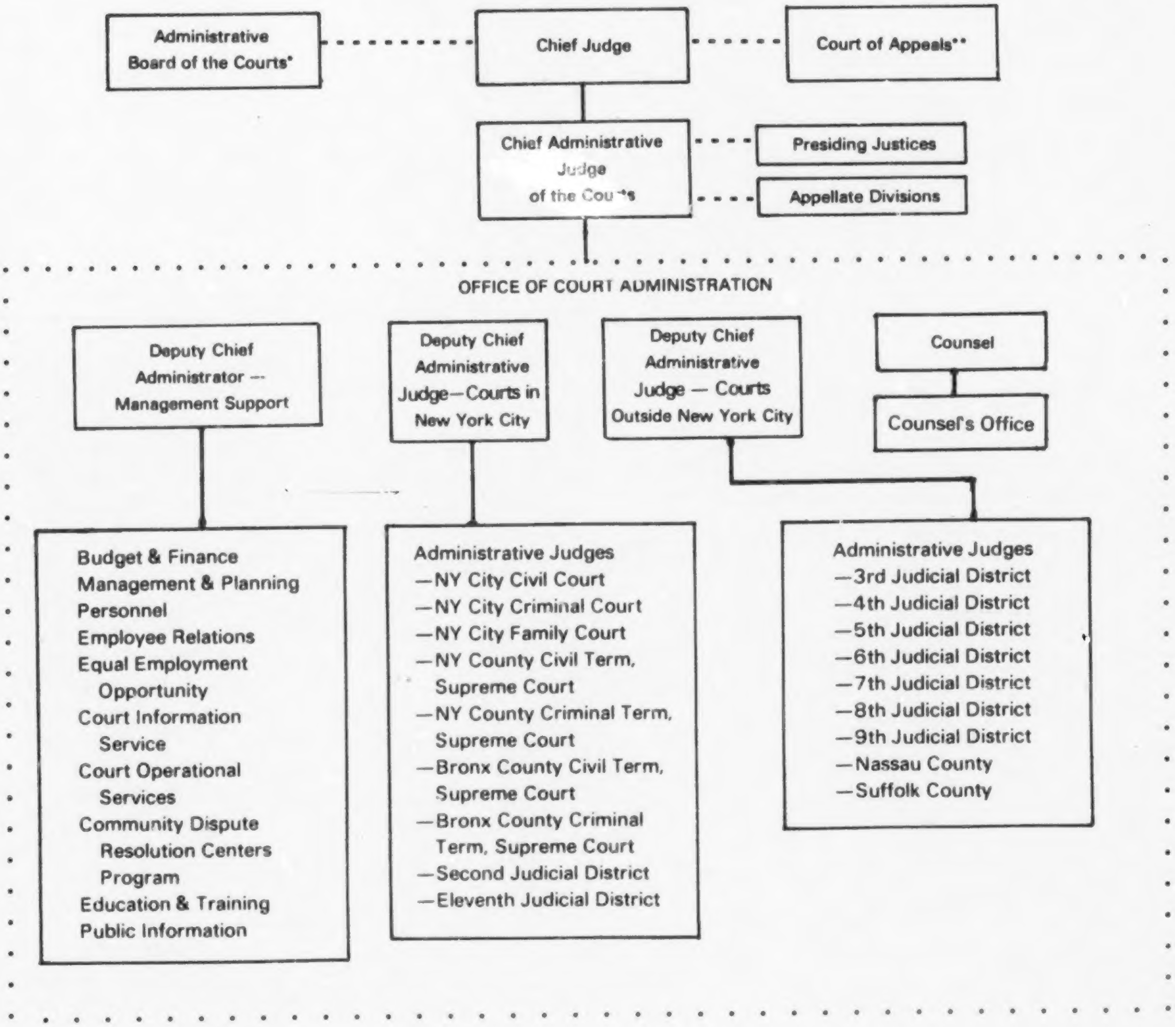
The increases in dispositions of indictments, however, were not large enough to keep up with the explosion of indictments filed. As a result, the number of pending indictments increased by 8.3 percent statewide, by 7.2 percent in New York City, by 15.8 percent in the six other big counties, and by 4 percent in the rest of the state.

To deal more aggressively with this problem, the Chief Judge announced, on November 23, 1981, a restructuring of the special effort to deal with the buildup of indictments and felony case delay in New York City. Beginning January 1, 1982, greater emphasis was placed on speeding up the disposition of felony cases in order to eliminate by February 1, 1983, all felony indictments pending more than six terms, or 24 weeks. Under the second phase of the restructured special effort, a demonstration project will be started in September 1982 to develop procedures designed to cut down the time from felony arrest to disposition to 135 days by August 1, 1983, or sooner.

The restructuring, which was designed with the assistance of the National Center for State Courts and the Institute for Court Management, also calls for, among other elements, a close inventory of pending cases; firm trial dates and control of adjournments; and the consideration of certain sanctions that might be imposed on prosecution or defense for failure to comply with a status conference schedule or for failure to proceed to trial when a firm trial date has been set.

The heart of the restructured plan is an improved

Figure 2
NEW YORK STATE JUDICIAL SYSTEM
Administrative Structure


Administrative Board of the Courts*
Chief Judge
Court of Appeals**
Chief Administrative Judge of the Courts
Presiding Justices
Appellate Divisions
OFFICE OF COURT ADMINISTRATION
Deputy Chief Administrator — Management Support
Deputy Chief Administrative Judge—Courts in New York City
Deputy Chief Administrative Judge — Courts Outside New York City
Counsel
Counsel's Office
Budget & Finance
Management & Planning
Personnel
Employee Relations
Equal Employment Opportunity
Court Information Service
Court Operational Services
Community Dispute Resolution Centers Program
Education & Training
Public Information
Administrative Judges
—NY City Civil Court
—NY City Criminal Court
—NY City Family Court
—NY County Civil Term, Supreme Court
—NY County Criminal Term, Supreme Court
—Bronx County Civil Term, Supreme Court
—Bronx County Criminal Term, Supreme Court
—Second Judicial District
—Eleventh Judicial District
Administrative Judges
—3rd Judicial District
—4th Judicial District
—5th Judicial District
—6th Judicial District
—7th Judicial District
—8th Judicial District
—9th Judicial District
—Nassau County
—Suffolk County

*Generally a consultative body.

**After consultation with the Administrative Board, the Chief Judge submits standards and administrative policies to Court of Appeals for approval.

management information system that enables key court managers to monitor closely every felony case at all stages of its handling in the courts. In addition, judges and nonjudicial personnel are being deployed according to patterns that concentrate on old cases; reasonable limitations are being imposed on adjournments; new and more definite pretrial procedures are being adopted and put into use; new forms and reminders are being used by court personnel; and the performance and productivity of the courts and court personnel are to be reported to the public regularly.

In addition, a split calendaring system is being adopted for felonies under which all arraignments, pretrial applications and pretrial conferences are scheduled for afternoon sessions and only cases ready for trial or on trial are called in the morning.

Civil Cases

The most notable endeavor to date to attain the goal of providing speedy justice was the Chief Judge's establishment in January 1980 of a plan to attack the backlog of civil cases pending in Supreme Court—62,000 statewide—and the attendant delays in adjudication. The Chief Judge's Plan, which was continued in 1981, represented a new effort to break the logjam in civil case processing. The major thrust was directed at the 11 counties in the state where civil litigants had traditionally waited on trial calendars for as long as three and four years. The 11 target areas were the five counties in New York City and Suffolk, Nassau, Westchester, Onondaga, Monroe, and Erie Counties.

In 1981, the Chief Judge's Plan provided for the interdistrict transfer of 253 Supreme Court and county-level judges. This permitted the creation of 21 additional court parts in New York City, six in Erie County and five in Suffolk County, for a total of 352 additional Supreme Court trial terms. The practical effect of these moves was to provide the equivalent of 32 additional judgeships without adding a single new judge to the state payroll.

The results of this special effort were impressive. From the end of 1979 to the end of 1981, the number of civil actions pending in Supreme Court (for which notes of issue and certificates of readiness for trial had been filed) decreased by 14,456 cases, or 23.3 percent, statewide. In New York City, the corresponding decrease was 9,397, or 35.9 percent. In the six other target counties, the decrease was 4,438, or 17.1 percent. And in the rest of the state, from which the transferred judges were borrowed, the decrease was 621, or 6.3 percent.

Even more impressive were the reductions in the backlog of "old" civil cases, that is, cases pending more than 60 weeks. Statewide, the backlog of old cases dropped by 9,841 cases, or 47.2 percent. In New York City, the corresponding reduction was 5,062 cases, or 61.5 percent. In the six other target counties, it was 4,303, or 38.7 percent. And in the rest of the state, the reduction was 476 cases, or 32.1 percent.

1.4.2 Arbitration Program

In addition to the transfer of hundreds of judges, the special effort to eliminate severe civil case backlogs provided for increased bench time for judges and for expanding arbitration of civil cases involving claims of $6,000 or less. Arbitration, or alternative dispute resolution by panels of lawyers, was used successfully in 27 counties in 1981. A total of 23,637 cases were disposed of through arbitration, 13,000 more than in 1980.

Under the arbitration program, if either party is dissatisfied with the arbitrator's award, they can demand a court trial. In 1981, there was a demand for a trial in only 7.9 percent of the 23,637 cases disposed of statewide.

1.4.3 Court Facilities Task Force

In December 1980, Chief Judge Lawrence H. Cooke established the State Court Facilities Task Force, made up of 19 judges, lawyers and civic leaders. He asked it to conduct a study of the physical court facilities of the Unified Court System, to recommend measures needed to permanently improve them, and to suggest such remedial steps as may be advisable in the near future. He also asked the Task Force, whose chairman is Richard F. Coyne, Esq., vice president of the Economic Development Council of New York City, Inc., to consider the current fiscal constraints on state and local governments in the formulation of its recommendations, including any financial proposals (see Third Annual Report of the Chief Administrator of the Courts, page 4, column 2, for a detailed description of this development).

On April 6, 1981, Chief Judge Cooke, acting on a recommendation of the Task Force, asked Chief Administrative Judge Herbert B. Evans to instruct Administrative Judges throughout the state to take steps to eliminate fire and safety hazards in state-funded courts and court offices under their supervision. The principal measure focused on by Judge Evans was the assignment, at each court, of a safety officer charged with the responsibility of developing and carrying out safety procedures with the assistance, where necessary, of local building and fire inspectors.

The Administrative Judges were asked to ensure that safety officers carried out these steps: (1) correction of physical conditions that may be hazardous to the safety of court personnel and the public; (2) appointment of fire wardens and development of evacuation procedures; (3) periodic fire drills and check of fire-fighting equipment and (4) posting of appropriate signs where necessary.

During 1981, the Task Force and the staff of the Facilities Planning and Management unit of the Office of Management Support completed a comprehensive survey of court facilities throughout the state. The survey was published early in 1982 and will be discussed in the next annual report. Copies of the survey are available from the Office of Court Administration.

1.4.4 Community Dispute Resolution Centers Program

The Community Dispute Resolution Centers Program was started pursuant to Chapter 847 of the Laws of 1981. The purpose of the program is to support, and encourage the creation of, locally operated neighborhood centers for the resolution of minor disputes, including many that now clog the criminal courts of lesser jurisdiction and contribute to delays and backlogs throughout the court system. These centers are intended to provide their communities with an economical and simple alternative to formal and sometimes costly and time-consuming litigation. They provide conciliation, mediation, arbitration and other forms and techniques of dispute resolution. The act creating the program runs until October 1, 1984.

Through this program, grants will be awarded to cover up to 50 percent of the total program budget for those centers that meet certain requirements, as established generally by the Legislature and further defined in the rules and regulations promulgated by the Chief Administrative Judge. The first 17 grants, totalling $849,089, were awarded in January 1982. The locations and the names of the recipients and the amounts of their grants are as follows:

New York City—Washington Heights-Inwood Coalition, Inc., Community Mediation Center, $30,000; Institute for Mediation and Conflict Resolution, which operates programs in Manhattan and the Bronx, $125,812; Victim Services Agency, which serves Brooklyn, Queens, and the Bronx, $125,811; Young People's Information Service, Inc. of Staten Island, $57,634; The Dispute Resolution Center of the Institute for the Study of the Borough of Brooklyn, operated by Brooklyn College of CUNY, $44,343.

Albany County—Albany Dispute Mediation Program, $9,400.

Dutchess County—Mid-Hudson Divorce and Family Mediation Center, Poughkeepsie, $23,026.

Monroe County—Center for Dispute Settlement, Inc., Rochester, $80,000.

Nassau County—Nassau Community Dispute Center for the American Arbitration Association, Garden City, $36,000; Education Assistance Center Mediation Alternative Project, Port Washington, $34,000.

Onondaga County—Resolve: A Center for Dispute Settlement, Inc., Syracuse, $38,000; The Volunteer Center, Inc., Syracuse, $25,000.

Rensselaer County—Community Dispute Settlement Program, Troy, $17,204.

Rockland County—Volunteer Mediation Center, Volunteer Counseling Service of Rockland County, Inc., New City, $20,351.

Schenectady County—Community Dispute Program: Law, Order and Justice Center, Schenectady, $15,170.

Suffolk County—Community Mediation Center, Inc., Coram, $70,000.

Westchester County—Community Dispute Resolution Center of the Crime Victims Assistance Agency, Rye, $34,338.

1.4.5 Administrative Reorganization

In January 1980, the Chief Judge asked the National Center for State Courts to conduct a study of the administrative structure of the Unified Court System and to recommend improvements in the way the system was being managed. The Center is generally recognized as one of the leading judicial research and advisory organizations in the Nation.

In June 1980, the Center submitted its report to the Chief Judge and the Chief Administrative Judge. It included a number of recommendations designed to streamline and strengthen the management of the court system.

On December 10, 1980, acting on the principal recommendations in the Center's report, the Chief Judge and the Chief Administrative Judge announced the creation of the position of Deputy Chief Administrator for Management Support, centralizing responsibility for the supervision of all management support services of the Office of Court Administration.

In the summer of 1981, on the basis of other recommendations by the National Center, the administrative structure of the courts outside the City of New York was reorganized. For many years, the offices of the departmental directors of administration had been responsible for general administrative functions, including budgeting and personnel activities, while the district administrative judges were responsible for operational functions, namely, intradistrict assignments of judges, calendar control, and the collection of statistical data. The functional dichotomy resulted in numerous problems.

Under the reorganization, the offices of the departmental directors of administration in the second, third and fourth departments were abolished, and their functions were transferred to the district administrative judges, in whose office administrative and operational responsibilities were then merged. With this consolidation, the district administrative judges are now able to coordinate management resources and address problems as they develop on a districtwide basis more expeditiously and flexibly.

Another of the Center's principal recommendations was implemented in October 1981. A new Office of Court Operational Services was established in the Office of Management Support. The new unit pulled together a number of administrative operations that had been conducted by several units within the Office of Management Support and the Office of the Deputy

Chief Administrative Judge for the courts in New York City. The operations involved are central payroll administration, facilities planning and management, central purchasing, systems (such as attorney registration), central OCA accounting and administration, central support services and microfilming.

1.4.6 Collective Bargaining

By the end of 1981 and for the first time since April 1, 1977—when the state assumed responsibility for funding all the costs of operating the courts, and all formerly locally paid nonjudicial court employees went on the state payroll—there were contracts in effect with every bargaining unit representing those employees. Two units, Nassau and Suffolk, representing 1,300 employees, under reopeners for 1981-82 salaries and certain other benefits, were at impasse.

The Unified Court Budget Act of 1976 required that the 131 collective negotiating units that represented nonjudicial employees before state takeover could not be changed by the Public Employment Relations Board acting pursuant to its Taylor Law authority. Consensual mergers of units were permitted, however, and the Judiciary has been partially successful in reducing the number of negotiating units on the basis of consent from the original 131 to 37.

Because of the sheer number of units involved the Chief Administrator of the Courts, who must negotiate collectively with each employee organization representing court employees in a negotiating unit, has been frustrated in his efforts to establish and implement consistent labor relations policies for the court system's nonjudicial employees. Moreover, because of the vicissitudes of the collective bargaining process, the existence of so many negotiating units hampers the vital coordination of effort necessary in implementing agreements once they are reached. Court employees performing the same work in the same title may have widely varying terms and conditions of employment established as a result of collective negotiations because they are in different negotiating units, each having negotiated its own terms and conditions of employment.

This unwieldy configuration of bargaining units is counterproductive to the constitutional mandate of the Unified Court System and is becoming increasingly costly to the taxpayers of New York State. The Chief Administrator has submitted legislation (S. 3504) that would permit the Public Employment Relations Board to further reduce the number of bargaining units in the Unified Court System. Its passage would eliminate these problems.

Responding to the problems posed by the multiplicity of negotiating units, the Employee Relations unit of the Office of Management Support, which is responsible for conducting contract negotiations, has been substantially reorganized and its staff increased to deal with the complex pattern of negotiations established by the Unified Court Budget Act.

1.4.7 Computerization

Steady progress has been made in the use of automated data systems in many phases of court operations.

Plans call for continued expansion of the OBTS (Offender Based Transaction System) Criminal Court Information System that serves the New York city criminal courts. It is expected that by the end of the 1982-83 fiscal year, the system will be operational in criminal terms in Supreme and County Courts in Westchester, Monroe, Erie, Suffolk, Onondaga, and Nassau Counties, as well as in the Nassau and Suffolk District Courts. Use of this system in all these jurisdictions will result in continued substantial improvement in the reporting of criminal case dispositions to the State Division of Criminal Justice Services.

The automated Jury Management System, which allows maximum use of juror resources, will undergo a similar expansion. By the end of the 1982-83 fiscal year, the system will be operating in New York, Kings, Monroe, Erie, Westchester, Suffolk and Niagara Counties.

The Supreme Court Civil Calendaring System, operational in Nassau County, will be extended to Westchester and Erie Counties and will be implemented in New York City. Also, evaluations are now underway of automated systems designed to provide an OBTS-like capability in Family Court. It is planned that implementation will take place in New York City Family Court during the 1982-83 fiscal year.

1.4.8 Financial Management and Control

Since state assumption on April 1, 1977, of the costs of operating hundreds of courts previously funded by local governments, the Office of Court Administration has taken a number of steps to ensure adequate fiscal accountability for the numerous elements consolidated within the Unified Court System. Of primary importance has been the budget process, through which the budget of each court and agency is reviewed and evaluated annually to ensure compliance with sound fiscal practices and to contain costs. A program budget format has been implemented for the courts of original jurisdiction, an undertaking which took several years to refine.

As the Judiciary has operated in an austere fiscal environment it has been necessary for the Office of Court Administration to develop an expanded fiscal management capability. Achieving that capability has been facilitated by the increased use of automated systems. These have been developed to assist in a number of functions, including monitoring expenditures, projecting anticipated costs, and assembling voluminous budget data from across the state. In addition, a centralized purchasing unit has been established to coordinate the procurement of supplies and equipment. This program has resulted in substantial savings.

Steps also have been taken to develop an increased awareness of financial administration and control at the local level. For example, seminars and other training sessions have been conducted annually for court officials. Also, at the request of the Chief Administrative Judge, the State Comptroller's Office has been conducting audits of major components of the Unified Court System. The goal is to complete fiscal audits of all courts within a reasonable length of time in order to correct any systemic problems and to ensure the accuracy of administrative and fiscal records maintained by the Judiciary.

1.4.9 Legislative Proposals

The Judiciary's commitment to cost containment and economy in operation is also reflected in its legislative program (See Chapter 6). A number of measures proposed by the Chief Administrator during the 1981 session would result in substantial annual savings to the state, as well as improve the judicial process.

Senate Bill 3216 and Assembly Bill 5066, recommended by the Judicial Conference, would vest primary responsibility for conducting the voir dire examination of prospective jurors in criminal cases in the trial judge, rather than the counsel for the parties. This change would significantly reduce the length of criminal trials and yield large savings in judicial time equivalent, as one study concludes, to adding 20 judges to the Supreme Court benches in New York City alone.

The state would also save an estimated $1 million annually by repealing the requirement that deliberating juries in all criminal cases be sequestered overnight in hotels under the supervision of court officers or deputy sheriffs. Where there is little likelihood of jury tampering or the like, sequestration of jurors in all cases is unnecessarily costly to the taxpayers and inconvenient to jurors. This proposal, supported by the Judicial Conference, is contained in Senate Bill 3221 and Assembly Bill 6729.

Senate Bill 3215 and Assembly Bill 5065, endorsed by the Judicial Conference, would amend subdivision (b) of section 710.60 of the Criminal Procedure Law to allow a court to dismiss summarily a motion to suppress statements when the movant fails to provide sworn allegations of fact to support the motion. By requiring a factual showing this measure would discourage *pro forma* motions that unnecessarily burden the court system.

1.4.10 Merger of Trial Courts

There are currently 11 different kinds of trial courts in the Unified Court System. This multiplicity of trial courts is inefficient, causes confusion, is difficult to manage, and increases operational costs. At the very least, the seven principal trial courts—Supreme, County, Family, Surrogate's, Claims, and New York City Civil and Criminal—should be merged into a single trial court of general jurisdiction. A court reform constitutional amendment providing for merger, supported by the Chief Judge and the Chief Administrative Judge, was introduced by the Governor in 1981, but was not acted on.

1.4.11 Attorney Registration

Chapter 714 of the Laws of 1981 requires that all attorneys admitted to practice in New York State must register biennially with the Office of Court Administration. And if an attorney intends to practice law, a $50 fee must accompany the registration. It was estimated that about 72,000 attorneys would register during the first registration period, January 1, 1982 through March 1, 1982, and every two years thereafter. It was also estimated that 4,000 additional attorneys would be admitted every year and register with the Office of Court Administration. A unit was set up in OCA in 1981 to process registrations and all requests for information. The unit will also have responsibility for the accounting of upwards of $3.5 million in fees for each registration period and for the appropriate transfer of those funds to the State Treasury and the Client Security Fund, also established pursuant to Chapter 714.

1.4.12 Small Claims Assessment Review

Legislation was passed in 1981 that established a small claims procedure for the review of real property assessments. Under this law, property owners of one-, two-, and three-family dwellings can appeal the decisions of a local board of assessment review if the owners agree that the annual tax relief sought is less than $750. The proceedings will be held before hearing officers who need not be attorneys but who must have knowledge of assessment practices.

The Chief Administrative Judge has promulgated rules governing practice and procedure; qualifications, selection and payment of hearing officers; case and calendar control, and statistical reporting. It is not yet possible to estimate the caseload or the costs of this program. The caseload will depend on the equity in local assessing practices, whether the localities are using full or proportional assessment practices, and the quality of decisions of local assessment review boards.

1.4.13 Special Studies

As part of the continuing effort to improve the management and operations of the courts, and derive the full benefit of centralized administration, the Office of Court Administration is currently conducting the following special studies.

1.4.13.1 Procedures Study

A major objective of the Unified Court System has been the establishment of uniform procedures for trial courts throughout the state.

The first procedures manuals for the Supreme Court and County Courts outside New York City have been prepared and put into use in cooperation with the Association of Clerks of the Supreme and County Courts and the National Center for State Courts. Procedures manuals for the Surrogate's Court and the Family Court were completed, field tested and put into use in 1981. A manual for the District and City Courts outside New York City was started in 1981 and will be put into use in 1982. Work on manuals for the Supreme Court in New York City will be started in 1982.

In addition, an effort is underway, in conjunction with the National Center for State Courts, to develop uniform court rules throughout the state. That project is intended to simplify applicable court rules and should greatly benefit the entire court system.

1.4.13.2 Court Reporting Study

The Office of Court Administration is conducting a study of the requirements of recording court proceedings and producing transcripts in order to most effectively use existing resources. The study will develop recommendations for the modification of current statutes and rules to ensure that transcripts are available when needed. This will involve the extensive investigation of all forms of transcript production, including computer-aided transcription devices.

1.4.13.3 Word Processing/Legal Research

OCA is conducting studies to determine the potential for use of various word processing and sophisticated legal research tools within the court system. Several applications of word processing equipment in 1981 proved highly successful in improving the flow of paperwork through the system and as a result increased the speed with which the public was served.

1.5 Other Administrative Actions of the Chief Judge and of the Chief Administrative Judge

In 1981, Chief Judge Lawrence H. Cooke (1) established a plan for the merit screening and rotation of Acting Justices of the Supreme Court within the City of New York, including the designation of an Acting JSC Screening Committee for the City of New York, chaired by Dean Emeritus Jerome Prince of Brooklyn Law School, to recommend judges of the Civil and Criminal Courts for temporary assignment to the Supreme Court; (2) amended section 20.17 of the Rules of the Chief Judge (22 NYCRR 20.17) to update the regulations requiring judges and justices to visit facilities and institutions for detention, treatment, examination and confinement; (3) amended section 35.3 of the Rules of the Chief Judge (22 NYCRR 35.3) relating to the videotaping of conditional examinations in criminal cases; and (4) promulgated a new Administrative Delegation Number 2, in furtherance of the delegation of authority to the Chief Administrator of the Courts effective April 1, 1978 (Delegation Number 1) relating to the designation of Deputy Chief Administrators for the Courts within and outside the City of New York and a Deputy Chief Administrator for Management Support, Delegation Number 2 taking effect as of January 22, 1981.

The principal administrative actions in 1981 of Chief Administrative Judge Herbert B. Evans, exercising powers delegated by the Chief Judge, were as follows: (1) promulgated rules governing the Community Dispute Resolution Centers Program (22 NYCRR part 116); (2) adopted a new rule governing civil actions and proceedings in the Supreme Court, New York County, requiring precalendar conferences in actions for personal injury or wrongful death in which the City of New York is not a party (22 NYCRR 660.35); (3) promulgated a new rule in relation to the salary schedules for certain nonjudicial officers and employees of the Unified Court System (22 NYCRR Part 8); (4) amended section 3420.7 (b) of the calendar and practice rules for the City Court of Buffalo in respect to the representation of criminal defendants and adjournments (22 NYCRR 3420.7); (5) amended the rules governing the reimbursement of travel expenses in connection with the performance of judicial duties (22 NYCRR Part 1); (6) promulgated a rule providing guidelines, including a preferred order and timetable, for the retention and disposition of records of trial courts of the Unified Court System (22 NYCRR Part 7); (7) repealed a miscellaneous rule of the Fourth Department providing for the destruction of records in the trial courts in that department (22 NYCRR 1039.11).

Also, (8) approved and ratified two administrative orders, one a joint order of the Appellate Divisions, First and Second Departments, enacting a new rule (22 NYCRR 620.14), and the other an order of the Appellate Division, Second Department, enacting a new rule (22 NYCRR 693.14), both relating to the disqualification of jurors from jury service on account of prior service; (9) adopted jointly with the Commissioner of Mental Health a new rule to implement section 330.20 of the Criminal Procedure Law (22 NYCRR Part 6); (10) repealed subdivision (c) of section 751.1 of the Rules relating to the Supreme Court, Kings County, in respect to the assignment of judges (22 NYCRR 751.1); (11) repealed one Rule and added a new Rule (with the same number) of the Rules for the trial courts in the Second Department relating to trials of actions in the Supreme Court in counties within the Second Department in respect to preference on account of age (22 NYCRR 674.5); (12) amended subdivision (c) of section 699.9 of the miscellaneous rules in the Second Department for all trial courts in that Department, with particular respect to the rules relating to the preparation of findings and judgment in matrimonial actions (22 NYCRR 699.9 (c)); (13) repealed and reenacted with revisions a section of the

Rules of the Supreme Court, Nassau County, governing the "precalendaring" disclosure conference; (14) amended the Note of Issue and Certificate of Readiness Rule of the Chief Administrator in several respects (22NYCRR Part 3); (15) amended two Rules of the Second Department governing preferences and the calendaring of civil actions in the trial courts (22 NYCRR 674 (b) (4) and 22 NYCRR 675.1 (b)); and (16) added a new subdivision (f) to section 2900.16 of the Rules of the Civil Court of the City of New York in relation to the notice of trial (22 NYCRR 2900.16).

1.6 Revision of the Rules of the Chief Judge and of the Chief Administrator of the Courts

A major reorganization and revision of the Rules of the Chief Judge and the Rules of the Chief Administrator of the Courts was conducted during 1981 and took effect on January 1, 1982. Certain substantive amendments were made in some of the Rules, including the Chief Administrator's Rules on Judicial Conduct.

The revision of the Rules of the Chief Judge of the State of New York and of the Chief Administrator of the Courts, effective January 1, 1982, is the first stage of a planned multistage revision of the Rules of the Unified Court System. The full revision that is contemplated will completely revise all of Title 22 of the Official Compilation of Codes, Rules and Regulations of the State of New York (22 NYCRR), except the rules governing appellate courts. The first stage revision rearranges the first three subchapters of Title 22. Subchapter A is the Rules of the Chief Judge, Subchapter B is the Administrative Delegations of the Chief Judge, and Subchapter C is the Rules of the Chief Administrator. The next stage will relate to a revision and unification of the myriad of administrative and procedural rules promulgated for the various judicial departments, judicial districts and courts of the state.

The Rules of the Unified Court System, beginning with the Rules of the Chief Judge and of the Chief Administrator of the Courts, were revised, rearranged and recodified to conform to the changes in Article VI of the Constitution, in particular, sections 20 and 28 of that Article, and to conform to the implementing statutory and regulatory provisions that also became effective on April 1, 1978: new Article 7-A of the Judiciary Law, the Standards and Administrative Policies of the Chief Judge, the Chief Judge's Administrative Delegation to the Chief Administrator of the Courts, and the orders of the Chief Administrator of the Courts adopting the Rules of Judicial Conduct and the existing administrative rules and orders of the Appellate Divisions and various courts.

Completion of the first stage revision was particularly urgent. Formerly, most of the Rules of the Chief Judge and the Chief Administrator, codified in NYCRR, were replete with obsolete references. The ordinary reader of NYCRR continued to see most of the Rules labelled as Rules of the Administrative Board of the Judicial Conference, or even as Rules of the Judicial Conference, bodies having no rule-making functions since April 1, 1978. Rules of the Chief Judge were interspersed with Rules of the Chief Administrator. Part 1 of Title 22 commenced with a Rule of the Chief Administrator. The Rules of the Chief Judge commenced with Part 20. Part 33 was another Rule of the Chief Administrator, and the most fundamental structural document of all, the Standards and Administrative Policies of the Chief Judge, was almost lost as Part 445. The fundamental Administrative Delegations of the Chief Judge to the Chief Administrator was not even printed in NYCRR. The confusion in the titles and arrangements of the Rules was worsened by the outmoded language in the texts of these Rules.

The basic thrust of the revision is not substantive; it is updating and clarifying. The clarification is enhanced by rearrangement of Rules as much as by the revision of references and terminology in the text.

Under the new format, the Rules that appear in Title 22 of NYCRR begin with the Rules of the Chief Judge, in particular with the basic general Standards and Administrative Policies of the Chief Judge adopted effective April 1, 1978. The Rules of the Chief Judge appear seriatim as Parts of NYCRR, revised and renumbered starting with Part 1. Certain former Administrative Board Rules which are not in nature statewide standards and administrative policies were removed from the Rules of the Chief Judge and included in the Rules of the Chief Administrator; for example, rules governing the gathering of statistics. The Administrative Delegations of the Chief Judge to the Chief Administrator follow the Chief Judge's Rules and appear as Part 80 of Title 22. The Rules of the Chief Administrator, starting at Part 100, follow the Administrative Delegations of the Chief Judge. Portions of the Chief Administrator's former Rules on Judicial Conduct which were matters of administrative policy rather than judicial ethics were removed from the Chief Administrator's Rules and incorporated into the Rules of the Chief Judge (e.g., electronic recording and videotaping of court proceedings).

Although most of the former Rules were revised numerically and in terminology and some relocated, a few former Rules that were completely obsolete were repealed and a few other Rules were revised substantively.

Throughout the Rules, an attempt was made to replace references to the Office of Court Administration by the term "administrative office for the court". The latter term has a statutory basis (§212 (1) (b) of the Judiciary Law), which the former has not. It is deemed advisable to use the more generic term to permit reorganization and redenomination of the administrative office, should circumstances require, without the need for extensive statutory and regulatory revision at that time.

It must be emphasized that this revision looks to the future and not merely to immediate concerns.

Where patently obsolete rules were amended to correct cross-references, this was done for the sake of consistency only and was not intended to reenact obsolete provisions. For example, it had been previously proposed that Part 27 of the Rules of the Chief Judge relating to Collective Negotiations Within the Unified Court System be repealed as totally obsolete, and that proposal was the subject of public hearings and remains under review. Updating the language of Part 27 was designed as an interim measure for consistency and symmetry, and in no way should be deemed as revitalizing the outmoded provisions of this Part.

Generally, titles were shortened wherever possible for greater readability, and an attempt was made to draft the rules as gender-neutral.

Table 1
NEW YORK STATE JUDICIAL SYSTEM
Authorized Number of Judges
December 31, 1981

Number of Judges	*Court*
7	Court of Appeals
24[a]	Supreme Court, Appellate Divisions
263[ab]	Supreme Court, Trial Parts
46[a]	Supreme Court — Certificated Retired Justices
17	Court of Claims
20	Court of Claims — Judges appointed pursuant to Chapter 603, Laws of 1973, Emergency Dangerous Drug Control Program
35[c]	Surrogates' Courts — including 6 Surrogates in the City of New York
58[d]	County Courts — County Judges outside the City of New York, in counties that have separate Surrogates and Family Court Judges
9	County Courts — County Judges who are also Surrogates
9[c]	County Courts — County Judges who are also Family Court Judges
28[c]	County Courts — County Judges who are also Surrogates and Family Court Judges
107	Family Courts — including 39 Family Court Judges in the City of New York
98	Criminal Court of the City of New York
120	Civil Court of the City of New York
49	District Courts — in Nassau and Suffolk Counties
166[e]	City Courts in the 61 Cities outside the City of New York — including Acting and Part-Time Judges
1,056	Total
2,327	Town and Village Justice Courts

[a] In addition to the 24 Supreme Court Justices permanently authorized, 10 Justices and 13 Certificated Retired Justices were temporarily designated to the Appellate Division.

[b] Does not include judges of other courts, especially the Civil and the Criminal Courts of the City of New York, who sat as Acting Supreme Court Justices during the year.

[c] Does not include the changes in Washington County authorized by the 1980 Session Laws, Chapter 292: Effective January 1, 1981, the offices of County (-Family) Court Judge and Surrogate are combined and the incumbents shall each for the remainder of his term, act as and discharge the duties of County Judge, Judge of the Family Court and Surrogate; effective January 1, 1982, the office of Surrogate shall be abolished and a new office of County (-Family-Surrogate's) Court Judge created. In other words, effective January 1, 1981, both the County-Family Judge and the Surrogate shall have the same jurisdiction; and effective January 1, 1982, both Judges shall be County-Family-Surrogate's Court Judges.

[d] Does not include the changes in Broome County authorized by the 1981 Session Laws, Chapter 873: Effective January 1, 1982 the number of County Court Judges in Broome County shall be increased from one to two.

[e] Does not include the changes in the City of Yonkers authorized by the 1980 Session Laws, Chapter 513: Effective January 1, 1982, the judicial positions of two of the four City Justices shall be abolished, and the number of City Judges increased from four to five; effective January 1, 1984, the other two City Justice judicial positions shall be abolished.

Chapter 2

Standard and Goals

On July 3, 1975, the Administrative Board of the Judicial Conference adopted standards and goals for the timely completion of fact-finding in Family Court proceedings and the timely disposition of felony indictments in Supreme Court and County Court, and of civil actions in Supreme Court. These goals were scheduled to be achieved in stages between October 1, 1975, and January 1, 1979, under the supervision of the administrative judges. (See chapter 2 of the 21st Annual Report.)

In a forward to the standards and goals, then State Administrative Judge Richard J. Bartlett said:

> "There is intolerable delay in the disposition of cases in the unified court system, the degree of delay varying from court to court and county to county. Our goal is to reduce delay where it exists by requiring that all courts comply with these standards ...
>
> "We recognize that timeliness of disposition is not the only, or indeed the primary, goal of the unified court system. The more important goal is improving the fairness of the judicial process. But delay erodes fairness so deeply that our first effort must be directed to its elimination. When court calendars are up to date, we will have done a great deal to improve the fairness of the process. We are, of course, addressing other measures which will further improve the quality of justice in the unified court system."

A summary of the progress made by the courts, during 1981, in complying with the standards and goals follows.

2.1 Family Court

The standards and goals provided that by April 1, 1979, fact-finding shall be completed within 90 days and disposition within 180 days of the commencement of a new proceeding or a proceeding involving a modification or a violation of a previous order.

The standard was to be achieved in two stages. The first stage provided that by January 1, 1979, a fact-finding hearing be completed within 90 days of the commencement of a proceeding. Stage two provided that by April 1, 1979, disposition be achieved within 180 days of the commencement of a proceeding, in addition to the provisions of stage one.

As of December 27, 1981, the intermediate standard has been complied with in more than 90 percent of the proceedings filed since October 1980 in 56 of the 63 reporting units (62 county Family Courts and a special New York City Family Court part engaged in reviewing foster-care proceedings).

In 43 counties, over 95 percent of the proceedings had met the standard. Only in Rockland County were fewer than 86 percent of the proceedings in compliance. (See Table 2.)

As of October 31, 1976, ten counties and the New York Foster Care Review Unit had compliance rates which were less than 85 percent. But by December 27, 1981, only one county had a compliance rate below this level. Moreover, in New York City (which includes the First, Second, and Eleventh Judicial Districts plus New York Foster Care Review) the rate increased from 72.7 percent as of October 1976, to 85.5 percent as of December 1977, and to 87.4 percent as of December 1978. As of December 1979, there was a slight decrease (0.4 percent) to 87.0 percent. The figures for December 1980, however, showed a gain of 2.2 percent to 89.2 percent compliance, followed by a December 1981 figure of 91.7 percent.

In summer 1975, before adoption of the standards and goals, 52 percent (27,401) of all Family Court proceedings had been awaiting completion of fact-finding for more than 90 days. By August 1, 1980, that figure had decreased to 21 percent. The August 1, 1981 data showed a slight gain, statewide, to 25 percent.

Progress with the 180-day disposition standard has been very good. Disposition monitoring in the monthly Standards and Goals Administrative Judges' Term Reports began in August 1979. For the year 1981, all counties attained a disposition compliance rate of over 90 percent.

2.2 Criminal Actions

The standards and goals provided that by January 1, 1980, no felony case shall have been pending more than six terms from the filing of an indictment. The standard was to be achieved in five stages. The fourth stage provided that by March 1, 1979, no Class A or violent felony should have been pending more than six months. The fifth stage, which provided that by January 1, 1980 no felony should have been pending more than six terms, has been achieved.

Statewide, 7,618 defendant-indictments alleging felony charges had been pending more than nine months as of summer 1975. The figure declined by 57 percent to 3,254 in summer 1981. There was, however, an increase of 39 percent from summer 1980 to summer 1981.

Over the past seven years, the number of defendant-indictments pending more than nine months was reduced in eight judicial districts and in New York City (Districts 1, 2, and 11). As of summer 1981, there were 771 defendant-indictments which had been pending for more than nine months in the districts outside New York City. This represents more than a 60 percent decrease from the 1,930 cases which were pending more than nine months as of summer 1975. New York City has also demonstrated significant progress in this regard, going from a summer 1975 figure of 5,688 cases to 2,483 cases pending more than nine months as of summer 1981. This is a 56 percent decrease.

An inspection of Figure 3 and Table 3 shows that the number of defendant-indictments pending for more than six months, statewide, increased from 4,012 in summer 1979 to 5,076 during summer 1981. New York City had an increase from 2,877 in summer 1979, to 3,826 during summer 1981. This increase is directly attributable to the significant increase in the number of criminal cases. It is being addressed by the Plan to Reduce Court Congestion (see discussion in Chapter I). The districts outside of New York City experienced a decrease from 1,135 in summer 1979 to 1,250 as of summer 1981. The six-month breakdown, which reflects the current six term standard for defendant-indictments, is not available for pre-1979 statistics.

The decline in the number of "older" cases as well as the decline in the total number of pending defendant-indictments over the period from 1975 to 1981 may be seen by referring to Figure 3. The number of cases older than nine months comprised 37 percent of the pending caseload in 1975, 23 percent of the 1978 pending caseload, 16 percent of the 1979 pending caseload, and 16 percent of the 1980 pending caseload. During 1981 this figure was 20 percent of the pending caseload. For those cases pending more than six months, this represented 31 percent of the 1979 pending caseload and 28 percent of the 1980 pending caseload. For 1981, this figure was 32 percent.

The number of felony defendant-indictments and the number of defendants in jail for more than one year, while awaiting commencement of trial or disposition, are shown in Table 4.

2.3 Civil Actions

The standards and goals for the disposition of civil actions in Supreme Court provided that by January 1, 1980, no civil actions shall have been pending more than 15 terms from the filing of a note of issue.

During 1981, there was great progress toward achieving the standards and goals for disposition of civil actions in the Supreme Court. For summer 1981, there were 8,201 civil actions pending longer than 18 months statewide. This represents a 31 percent decrease from the summer 1975 figure of 11,883, and a 5 percent decrease from the summer 1980 figure of 8,609. For civil actions pending longer than 12 months, statewide the summer 1981 figure was 13,023. This is a 35 percent decrease from the summer 1975 figure of 19,997, and a 15 percent decrease from the summer 1980 figure of 15,400. A review of Figure 4 and Table 5 shows that for the number of civil actions pending longer than 15 months, statewide there was a 44 percent decrease from 20,661 in summer 1979 to 11,4[illegible]2 as of summer 1980. The summer 1981 figure of 10,494 represents a 9 percent decrease from the summer 1980 figure. This breakdown reflects the current 15 term standard for civil actions. This breakdown is not available for the pre-1979 statistics.

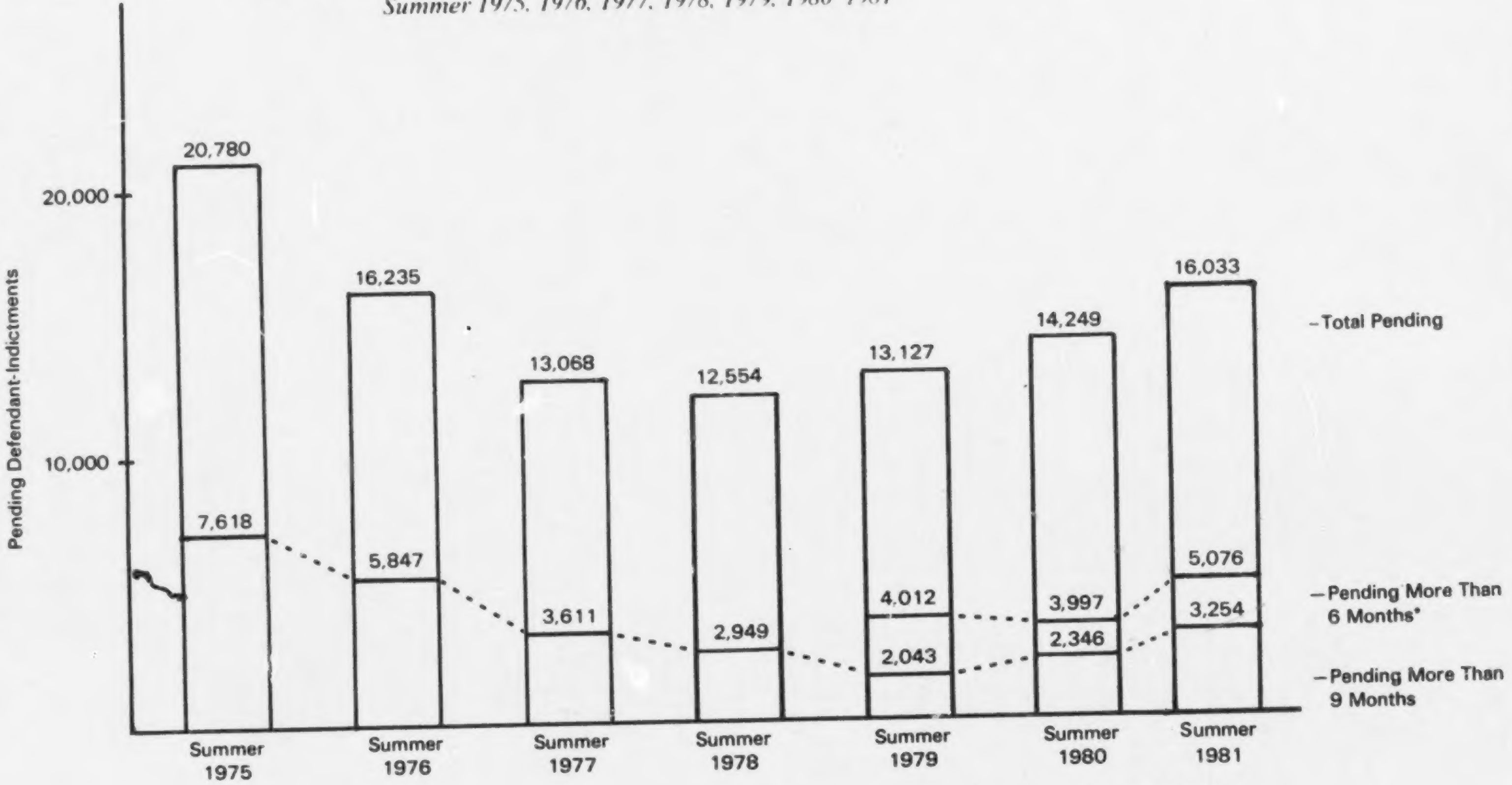
Much of the decrease in older civil actions is attributed to New York City. Between summer 1975 and summer 1979, the number of civil actions pending more than 18 months had increased 148 percent, compared with a 2 percent decrease upstate. However, the summer 1980 statistics showed a 54 percent decrease from the 1979 New York City figure and a 40 percent decrease from the 1979 upstate figure. The summer 1981 figure for those civil actions in New York City pending more than 18 months decreased by 14 percent as compared to the 1975 figure and by 24 percent compared to the 1980 figure. The upstate figures for civil actions pending more than 18 months were: a decrease of 37 percent from summer 1975 to summer 1981 and an increase of 8 percent from 1980 to 1981. An analysis of civil actions pending more than 15 months in New York City during 1981 showed that there was a slight decrease (0.2%) from the 1980 figure of 45 percent for those cases in which the City of New York was a defendant. These "City Cases" have historically been difficult to dispose of in a timely manner, but progress has been made, for the 1979 statistics showed "City Cases" to be 50 percent of the New York City total pending caseload as compared to the 1980 figure of 32 percent and the 1981 figure of 30 percent.

During summer 1981, the districts outside of New York City had 7,286 civil actions pending longer than 15 months as compared to 6,889 during summer 1980. This is an increase of 6 percent.

Inspection of the figures for civil actions pending more than 12 months shows that districts outside of New York City had a 40 percent decrease from 15,318 in summer 1975 to 9,268 cases pending longer than 12 months as of summer 1981. New York City experienced a 20 percent decrease during this period. This is an improvement over the 35 percent increase seen over the period from 1975 to 1980 for those cases pending longer than 12 months.

By 1979, New York City had experienced an 83 percent increase above the 1975 total pending figure, and the upstate counties had decreased their total

Figure 3
PENDING DEFENDANT-INDICTMENTS STATEWIDE BY YEAR
Summer 1975, 1976, 1977, 1978, 1979, 1980 1981



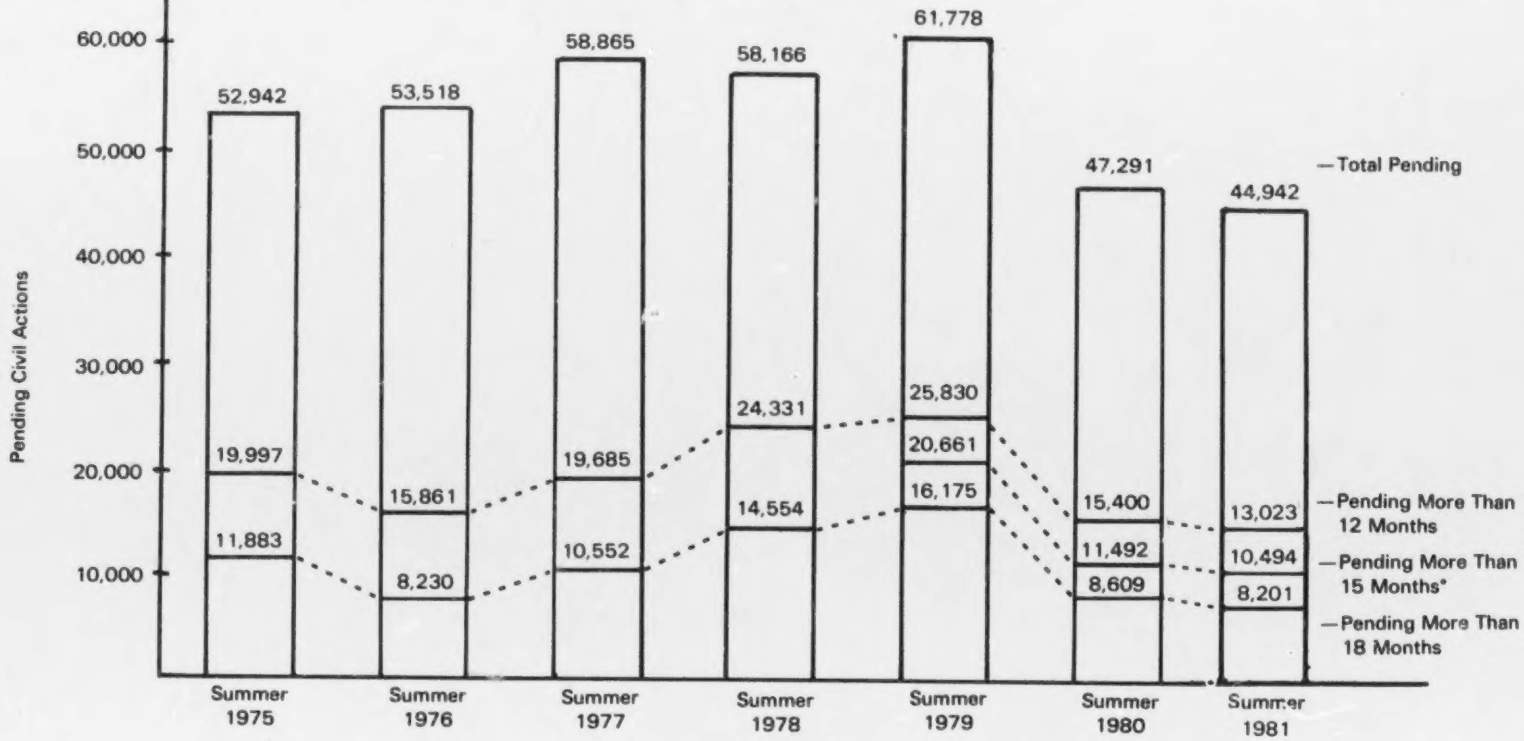
*The six month breakdown is only available for Summer 1979, Summer 1980, and Summer 1981 statistics. This reflects the current standard for defendant-indictments.

Source: OCA Summer Inventory

Figure 4

PENDING CIVIL ACTIONS STATEWIDE BY YEAR

Summer 1975, 1976, 1977, 1978, 1979, 1980 1981



*The 15 month breakdown is only available for Summer 1979, Summer 1980, and Summer 1981 statistics. This reflects the current standard for civil actions.

Source: OCA Summer Inventory

pending by 9 percent. However, between 1979 and 1980, the total pending figure in New York City decreased by 35 percent, from 26,659 to 17,332. This ameliorated the 19 percent increase (14,549 in 1975 to 17,332 in 1980) in the New York City total pending. The upstate counties realized a decrease of 22 percent, from 38,393 in 1975 to 29,959 in 1980. During 1981, New York City had experienced a 3 percent decrease from the 1975 total pending figure, and the upstate counties also experienced a decrease in their total pending by 20 percent. For the period from summer 1980 to summer 1981, New York City further decreased its total pending by 18 percent while the upstate counties had a small increase of 3 percent.

The number of civil actions pending more than 18 and more than 12 months as percentages of the total caseload is shown in Table 6. The 18 month breakdown is shown only for pre-1979 data. The summer 1979, summer 1980, and summer 1981 figures show a 15 month breakdown to reflect the current standard for civil actions. As of summer 1981, 23 percent of the caseload had been pending more than 15 months statewide; 23 percent in New York City, and 24 percent in upstate counties. For cases pending more than 12 months, as of summer 1981, the figures were 29 percent statewide, 27 percent in New York City, and 30 percent upstate.

The total number of civil actions pending in 1981 was 44,942, which represents a decrease of 15 percent from the 1975 figure of 52,942 and a decrease of 5 percent from the 1980 figure of 47,291.

Table 2

STANDARDS AND GOALS
Percentage of Family Court Proceedings Completing Fact Finding in 90 Days or Less by County and Judicial District

Oct. 31, 1976, Dec. 31, 1977, 1978, Dec. 30, 1979, Dec. 28, 1980, Dec. 27, 1981

County	Oct. 31, 1976	Dec. 31, 1977	Dec. 31, 1978	Dec. 30, 1979	Dec. 28, 1980	Dec. 27, 1981
Albany	99.8	99.0	100.0	100.0	100.0	100.0
Allegany	84.9	92.8	97.6	94.6	89.9	90.4
Bronx	75.7	77.4	83.7	80.1	81.0	87.9
Broome	98.8	99.9	100.0	100.0	100.0	100.0
Cattaraugus	90.0	94.1	97.5	95.9	86.2	87.4
Cayuga	97.0	99.2	100.0	99.9	100.0	99.3
Chautauqua	95.3	97.5	96.6	98.3	98.1	99.2
Chemung	94.1	97.0	97.5	96.8	97.7	98.9
Chenango	97.9	98.1	98.6	98.7	98.9	99.2
Clinton	99.8	99.7	99.6	99.3	99.7	99.6
Columbia	92.4	98.9	98.9	98.3	97.3	93.6
Cortland	98.4	96.9	97.9	97.8	97.6	97.4
Delaware	96.9	99.5	99.8	100.0	99.7	100.0
Dutchess	81.8	90.4	91.5	94.9	97.3	98.4
Erie	92.7	89.3	86.0	91.7	92.2	91.0
Essex	83.9	97.0	96.9	98.4	94.5	98.6
Franklin	95.6	89.5	98.7	98.0	98.6	96.8
Fulton	97.8	97.9	96.6	97.7	97.3	98.1
Genesee	96.1	94.7	94.6	95.8	94.4	95.6
Greene	97.3	97.0	98.0	94.8	98.0	99.4
Hamilton	95.5	98.8	98.4	92.7	98.8	96.2
Herkimer	96.6	97.2	97.1	95.7	98.3	99.0
Jefferson	97.6	99.1	99.9	100.0	100.0	100.0
Kings	77.6	92.6	95.3	94.0*	90.6	91.2
Lewis	95.8	98.3	97.5	100.0	100.0	99.5
Livingston	80.4	96.8	94.8	97.7	97.9	97.6
Madison	99.3	99.9	99.9	99.8	99.3	99.7
Monroe	78.3	85.2	83.2	91.6	92.6	95.9
Montgomery	97.5	99.2	98.8	97.7	98.6	99.6
Nassau	95.4	90.2	89.9	94.3	94.7	93.6
New York	72.0	84.0	90.2	85.1	89.3	90.6
New York Foster Care	62.8	87.1	87.8	88.7	96.1	97.8
Niagara	85.3	97.6	96.5	97.8	97.1	96.4
Oneida	94.3	96.5	98.2	96.5	86.2	92.5
Onondaga	91.9	92.8	89.3	89.9	88.9*	97.6*
Ontario	87.8	93.2	92.8	94.6	93.2	94.0
Orange	97.5	98.6	98.8	98.8	96.4	89.6
Orleans	88.0	85.7	83.3	89.8	91.6	97.1
Oswego	97.9	95.8	97.9	97.5	99.1	99.1
Otsego	97.8	99.4	97.8	99.3	99.9	99.7
Putnam	98.7	96.5	92.4	85.8	84.2	96.1
Queens	77.5	79.8	77.4	79.7*	90.1*	91.7*
Rensselaer	97.2	99.5	99.3	100.0	99.9	99.4
Richmond	99.1	94.6	94.0	96.9	99.2	99.3
Rockland	95.6	96.5	87.6	88.5	93.7	80.7
St. Lawrence	96.7	95.9	90.9	96.5	96.6	97.3
Saratoga	97.1	98.8	98.2	95.4	97.6	95.2
Schenectady	99.1	99.0	98.7	99.0	99.7	100.0
Schoharie	99.5	100.0	98.8	96.4	97.3	98.0
Schuyler	99.1	100.0	100.0	100.0	100.0	100.0
Seneca	89.5	91.4	92.4	95.2	96.0	94.2
Steuben	93.8	95.3	94.3	92.4	92.7*	89.8
Suffolk	84.0	84.5	84.3	91.0	90.6	91.0
Sullivan	96.9	97.7	99.0	99.7	99.9	99.9
Tioga	97.0	99.5	99.5	99.8	99.7	99.3
Tompkins	85.8	82.9	95.1	98.9	97.6	97.0
Ulster	93.2	89.9	92.3	94.9	95.1	93.7
Warren	91.4	98.8	98.5	98.7	93.5	97.7
Washington	97.5	99.3	98.8	99.5	99.9	99.7
Wayne	91.7	95.2	97.3	94.6	93.6	90.6
Westchester	92.9	88.9	89.3	86.9	88.2	89.2
Wyoming	90.9	92.5	91.8	93.6	96.8	96.2
Yates	93.9	96.9	96.1	94.9	87.6	86.7
Judicial District						
New York City (1, 2, 11 & Foster Care)	72.7	85.5	87.4	87.0*	89.2*	91.7*
District 3	96.9	97.8	98.3	98.6	98.7	98.1
District 4	97.0	97.5	97.4	97.8	97.9	98.0
District 5	94.0	94.7	93.4	93.2	92.4*	97.6*
District 6	97.4	97.5	98.8	99.1	99.2	99.2
District 7	84.5	89.6	88.8	93.3	93.6*	94.5
District 8	91.9	92.0	89.8	93.5	93.2	93.0
District 9	92.4	91.0	91.3	90.4	91.5	89.8
District 10	89.5	86.7	86.6	92.3	92.3	92.0

*Estimated Figure

Source: Family Court Administrative Judge Term Reports: December 1975 through October 1976, January 1977 through December 1977, January 1978 through December 1978, January 1979 through December 1979, January 1980 through December 1980, and January 1981 through December 1981.

Table 3

STANDARDS AND GOALS

Defendant-Indictments Alleging Felony Charges Pending for More Than Nine Months: Summer 1975, 1976, 1977, 1978; and Pending More Than Six Months: Summer 1979, 1980, 1981*

County	Summer 1975	Summer 1976	Summer 1977	Summer 1978	Summer 1979*	Summer 1980*	Summer 1981*
Albany	47	41	28	16	18	34	54
Allegany	15	5	1	0	0	0	7
Bronx	1.171	1.077	706	420	549	645	669
Broome	17	8	4	2	9	14	41
Cattaraugus	6	0	0	2	3	0	11
Cayuga	3	6	2	2	3	13	1
Chautauqua	24	3	1	1	13	10	23
Chemung	18	20	5	12	15	19	40
Chenango	0	0	0	0	2	0	2
Clinton	34	30	8	3	4	26	37
Columbia	3	11	8	17	4	11	25
Cortland	0	0	4	1	6	0	0
Delaware	2	2	0	0	0	2	2
Dutchess	35	59	5	5	10	82	2
Erie	129	165	122	281	180	215	151
Essex	18	5	1	4	1	5	2
Franklin	7	0	4	6	7	14	4
Fulton	0	6	0	0	4	25	4
Genesee	4	1	2	0	5	0	8
Greene	75	29	29	10	8	6	3
Hamilton	0	0	0	0	0	0	1
Herkimer	1	4	1	2	5	3	2
Jefferson	2	7	0	2	11	3	2
Kings	2.178	1.291	702	496	909	977	1.814
Lewis	0	1	4	2	3	4	0
Livingston	17	8	4	0	6	7	23
Madison	7	0	2	2	0	0	0
Monroe	138	200	112	226	112	109	75
Montgomery	4	2	1	2	16	20	3
Nassau	375	370	118	150	194	114	185
New York	1.909	1.241	1.032	558	971	805	746
Niagara	6	6	12	16	18	12	13
Oneida	29	30	9	29	37	20	9
Onondaga	15	28	27	10	16	23	17
Ontario	5	3	0	0	1	0	13
Orange	40	31	20	3	16	2	2
Orleans	1	2	0	7	3	9	6
Oswego	2	20	0	5	3	0	0
Otsego	3	1	0	1	1	11	9
Putnam	4	19	6	0	4	0	14
Queens	398	262	234	365	433	553	583
Rensselaer	13	30	7	13	15	29	57
Richmond	32	48	23	5	15	11	14
Rockland	22	5	3	0	5	3	15
St. Lawrence	3	2	0	0	4	3	0
Saratoga	2	2	0	1	8	1	10
Schenectady	3	14	31	18	31	21	28
Schoharie	0	0	0	0	2	0	4
Schuyler	1	0	0	0	0	1	0
Seneca	6	6	0	4	2	12	3
Steuben	7	16	2	10	11	4	28
Suffolk	358	409	183	168	191	50	35
Sullivan	31	26	13	11	4	0	14
Tioga	13	11	4	4	1	0	2
Tompkins	27	9	7	7	14	11	24
Ulster	60	31	45	18	17	16	18
Warren	0	3	0	1	3	2	11
Washington	6	2	0	2	3	0	1
Wayne	3	5	0	1	0	5	10
Westchester	286	233	77	28	86	35	418
Wyoming	0	1	2	5	0	0	3
Yates	3	0	0	0	0	0	1
Judicial District							
New York City (1, 2, & 11)	5.688	3.919	2.697	1.844	2.877	2.991	3,826
District 3	299	168	130	85	68	96	175
District 4	77	66	45	37	81	117	91
District 5	49	90	41	50	75	53	30
District 6	88	51	26	29	48	58	120
District 7	182	244	120	243	135	150	154
District 8	185	183	140	312	222	246	222
District 9	387	347	111	36	121	122	238
District 10	733	779	301	318	385	164	220
Total State	7.618	5.847	3.611	2.954	4,012	3,997	5,076

*The six-month breakdown is only available for Summer 1979, Summer 1980 and Summer 1981. This reflects the current standard for defendant-indictments.

Source: 1975, 1976, 1977, 1978, 1979, 1980, and 1981 summer inventory data pending defendant-indictments.

Table 4

STANDARDS AND GOALS
Number of Defendant-Indictments Where Defendants Have Been Jailed for More Than One Year by County

Oct. 1, 1975, 1976 and Dec. 31, 1977, 1978, Dec. 30, 1979, Dec. 28, 1980, Dec. 27, 1981

	Number of Jailed Defendant-Indictments*						
County	**Oct. 1, 1975**	**Oct. 1, 1976**	**Dec. 31, 1977**	**Dec. 31, 1978**	**Dec. 30, 1979**	**Dec. 28, 1980**	**Dec. 27, 1981**
New York	100	24	10 (8)	50 (36)	52 (41)	56**	N/A
Bronx	68	21	2 (2)	0	7 (5)	6**	**** (43)
Queens	18	11	13 (11)	26 (18)	4 (4)	33**	**** (63)
Kings	135	6	6 (5)	25 (20)	38 (29)	59**	N/A
Richmond	0	0	1 (1)	0	1 (1)	0**	1 (1)
Suffolk	9	4	0	0	0	0	0
Nassau	3	3	1 (1)	2 (2)	1 (1)	4 (4)	6 (6)
Onondaga	0	1	0	0	0	0	0
Orange	3	0	0	0	4 (4)	0	0
Tompkins	3	0	0	0	0	0	0
Westchester	2	0	0	0	3 (3)	0	4 (4)
Steuben	2	0	0	0	0	1 (1)	3 (3)
Erie	1	0	7 (7)	6 (6)	2 (2)	4 (4)	2 (2)
Genesee	1	0	0	0	0	0	0
Sullivan	1	0	1 (1)	0	0	1 (1)	0
Ulster	1	0	0	0	1 (1)	0	0
Washington	1	0	0	0	0	0	0
Oneida	1	0	0	0	0	0	**** (54)
Monroe	0	0	0	1 (1)	2 (2)	0	0
Dutchess	0	0	0	0	1 (1)	1 (1)	0
Warren	0	0	0	0	0	1 (1)	0
Saratoga	0	0	0	0	0	0	1 (1)
Schuyler	0	0	0	0	0	0	1 (1)
Total State	349	70	41 (36)	110 (83)	116 (94)	166 (12)***	N/A

*The number of defendants is shown in parentheses. Data are not available on the number of defendants jailed for more than one year prior to Dec. 31, 1977.

**Data as of December 28, 1980 are not available for New York City; the figures shown are as of July 31, 1980—OCA Summer Inventory. The number of defendants is also not available at this time for New York City.

***This Total State figure reflects the preceding footnote.

****The number of jailed defendant-indictments is not available for these counties.

Table 5

(Partial)

STANDARDS AND GOALS

Summary of Pending Civil Actions in Supreme Court by County, Judicial District and Year

Summer 1975, 1976, 1977, 1978, 1979, 1980, 1981

County	Total Pending						
	Summer 1975	Summer 1976	Summer 1977	Summer 1978	Summer 1979	Summer 1980	Summer 1981
Albany	1511	1654	1581	1183	977	855	880
Allegany	48	64	45	59	38	18	18
Broome	318	245	205	210	276	304	248
Bronx	3627	2101	2258	2701	3231	1674	1058
Cattaraugus	74	90	85	70	52	44	63
Cayuga	80	106	59	55	32	50	46
Chautauqua	224	234	154	151	155	165	115
Chemung	393	303	190	108	131	149	216
Chenango	17	19	24	28	26	26	23
Clinton	110	130	107	83	82	118	100
Columbia	61	74	107	71	56	49	94
Cortland	42	28	17	36	32	29	9
Delaware	77	89	75	28	40	31	28
Dutchess	551	479	496	530	467	471	433
Erie	7033	5012	5745	5454	5746	3012	2328
Essex	76	83	34	33	49	48	56
Franklin	90	91	90	62	85	106	57
Fulton	222	253	214	138	148	151	194
Genesee	51	60	50	74	111	49	28
Greene	101	116	95	67	58	68	99
Herkimer	167	151	173	118	113	108	105
Jefferson	162	255	122	94	104	100	161
Kings	4050	5368	6304	6375	7680	5121	4026
Lewis	29	25	15	9	10	11	19
Livingston	55	56	76	39	30	48	21
Madison	53	27	34	57	55	42	38
Monroe	3563	2162	2172	2033	1629	1189	404
Montgomery	177	197	213	160	142	157	106
Nassau	6304	6519	7118	7211	7854	8700	9959
New York	5300	5631	8289	9558	10,650	7077	5766
Niagara	681	601	390	351	297	358	400
Oneida	751	650	569	560	581	439	405
Onondaga	2711	2704	2578	1754	1409	959	849
Ontario	92	59	60	60	61	71	57
Orange	800	822	900	663	697	710	893
Orleans	10	22	16	24	18	21	18
Oswego	225	130	161	130	201	238	306
Otsego	46	51	47	39	78	65	43
Putnam	136	168	173	188	294	347	211
Queens	1278	3437	4144	3998	4475	2904	2635
Rensselaer	398	393	350	327	353	293	339
Richmond	294	396	400	463	623	551	695
Rockland	704	834	824	977	952	737	856
St. Lawrence	106	118	82	72	56	72	111
Saratoga	468	465	332	267	207	355	300
Schenectady	1374	1616	1420	1202	962	796	728
Schoharie	38	22	41	42	57	32	32
Schuyler	6	5	8	1	4	9	10
Seneca	19	13	26	8	13	16	17
Steuben	73	56	33	27	60	110	60
Suffolk	4549	5086	6312	6452	6621	4961	5480
Sullivan	222	296	225	244	202	225	228
Tioga	60	52	39	[illegible]	23	45	43
Tompkins	121	120	110	[illegible]	111	134	142
Ulster	461	409	376	359	390	379	502
Warren	148	140	79	44	72	108	99
Washington	50	48	59	27	61	27	24
Wayne	64	59	63	48	68	67	47
Westchester	2512	3087	2837	2860	2718	2264	2688
Wyoming	17	21	29	38	50	17	20
Yates	12	16	25	5	5	11	6
Judicial District							
New York City (1, 2, 11)	14,549	16,933	21,395	23,095	26,659	17,332	14,180
District 3	2,792	2,964	2,775	2,293	2,093	1,901	2,174
District 4	2,771	3,141	2,630	2,088	1,864	1,939	1,775
District 5	4,045	3,915	3,618	2,665	2,418	1,873	1,845
District 6	1,133	939	749	648	776	830	800
District 7	3,958	2,527	2,514	2,275	1,898	1,550	658
District 8	8,138	6,104	6,514	6,221	6,467	3,683	2,990
District 9	4,703	5,390	5,230	5,218	5,128	4,522	5,081
District 10	10,853	11,605	13,430	13,663	14,475	13,661	15,439
Total State	52,942	53,518	58,855	58,166	61,798	47,291	44,942

Table 5

(Continued)

STANDARDS AND GOALS

Summary of Pending Civil Actions in Supreme Court by County, Judicial District and Year

Summer 1975, 1976, 1977, 1978, 1979, 1980, 1981

	Pending Longer Than 18 Months				Pending Longer Than 15 Months*		
County	**Summer 1975**	**Summer 1976**	**Summer 1977**	**Summer 1978**	**Summer 1979***	**Summer 1980***	**Summer 1981***
Albany	153	81	133	106	136	132	143
Allegany	1	3	1	4	5	0	3
Broome	46	3	0	1	1	0	3
Bronx	1200	328	338	908	1455	515	224
Cattaraugus	1	6	11	12	6	0	1
Cayuga	5	0	0	0	0	0	1
Chautauqua	42	18	12	11	23	28	27
Chemung	63	35	8	0	3	0	3
Chenango	1	0	0	0	0	0	0
Clinton	12	5	2	5	7	3	7
Columbia	5	6	6	8	4	2	4
Cortland	3	0	0	0	2	0	0
Delaware	2	13	1	3	0	0	0
Dutchess	15	18	19	42	65	52	36
Erie	2139	1424	1957	3261	3670	1038	700
Essex	11	10	1	1	4	8	10
Franklin	15	13	9	21	15	37	7
Fulton	19	28	12	10	8	8	15
Genesee	2	0	2	5	6	10	3
Greene	10	19	12	4	2	4	5
Herkimer	7	1	1	2	7	2	1
Jefferson	45	31	4	1	1	0	7
Kings	299	289	1023	1885	3924	1712	895
Lewis	1	0	0	0	0	0	0
Livingston	1	0	0	0	1	0	0
Madison	0	0	0	0	0	7	0
Monroe	333	204	244	364	321	51	8
Montgomery	34	33	22	4	16	14	12
Nassau	1599	1169	1810	1924	2439	2938	3638
New York	1408	703	962	1780	3034	1931	1484
Niagara	146	75	10	6	9	43	73
Oneida	8	8	10	60	25	11	11
Onondaga	891	810	722	340	307	40	6
Ontario	0	0	0	0	1	0	1
Orange	123	70	155	69	104	32	180
Orleans	0	0	0	0	1	0	1
Oswego	21	2	10	1	0	5	40
Otsego	4	0	10	0	5	1	0
Putnam	36	17	4	1	61	111	36
Queens	87	70	29	426	1038	382	447
Rensselaer	65	35	13	19	36	32	73
Richmond	48	50	41	50	112	63	155
Rockland	85	45	55	75	112	107	112
St. Lawrence	7	7	0	2	0	1	3
Saratoga	48	13	6	4	6	13	41
Schenectady	256	422	451	448	382	99	107
Schoharie	4	0	3	2	9	8	0
Schuyler	2	0	0	0	0	0	0
Seneca	0	0	0	0	0	0	0
Steuben	9	5	2	0	1	0	2
Suffolk	1754	1625	2111	2201	2865	1676	1320
Sullivan	42	29	13	12	14	11	22
Tioga	15	4	0	1	1	1	0
Tompkins	14	3	3	1	3	0	2
Ulster	25	3	5	6	9	2	55
Warren	21	24	6	0	0	2	14
Washington	5	0	1	0	2	0	0
Wayne	0	0	1	0	2	2	0
Westchester	695	437	278	461	391	356	550
Wyoming	0	2	3	7	10	2	2
Yates	0	1	0	0	0	0	1
Judicial District							
New York City (1, 2, 11)	3,042	1,440	2,393	5,049	9,563	4,603	3,208
District 3	304	173	185	157	210	191	302
District 4	428	588	510	495	440	185	216
District 5	973	852	747	404	340	58	65
District 6	150	58	12	6	15	9	8
District 7	348	210	247	364	326	53	13
District 8	2,331	1,528	1,996	3,306	3,730	1,121	810
District 9	954	587	511	648	733	658	914
District 10	3,353	2,794	3,921	4,125	5,304	4,614	4,958
Total State	11,883	8,230	10,522	14,554	20,661	11,492	10,494

*These Summer 1979, Summer 1980 and Summer 1981 figures show Civil Actions which were pending longer than 15 months. This reflects the current standard for Civil Actions. This breakdown is not available for pre-1979 figures.

Table 5
(Concluded)
STANDARDS AND GOALS
Summary of Pending Civil Actions in Supreme Court by County, Judicial District and Year
Summer 1975, 1976, 1977, 1978, 1979, 1980, 1981

County	Pending Longer Than 12 Months						
	Summer 1975	Summer 1976	Summer 1977	Summer 1978	Summer 1979	Summer 1980	Summer 1981
Albany	383	370	466	459	294	268	205
Allegany	4	8	6	8	14	0	3
Broome	91	15	1	4	2	14	14
Bronx	1830	531	669	1288	1655	649	267
Cattaraugus	10	17	20	21	8	1	1
Cayuga	18	0	0	0	0	0	1
Chautauqua	76	54	32	35	39	40	67
Chemung	127	124	23	2	5	1	16
Chenango	2	1	0	0	0	0	0
Clinton	18	19	3	11	9	8	12
Columbia	8	17	12	20	5	6	8
Cortland	6	0	0	3	4	1	0
Delaware	20	20	7	4	0	0	0
Dutchess	110	69	66	143	103	94	55
Erie	3637	2440	3028	4185	4030	1216	775
Essex	23	24	10	3	6	11	14
Franklin	27	24	26	37	18	46	7
Fulton	36	74	37	31	14	14	27
Genesee	8	2	30	12	18	12	4
Greene	26	44	28	8	6	7	9
Herkimer	20	13	11	11	11	4	1
Jefferson	76	55	16	2	1	6	14
Kings	693	1098	2376	3224	4499	2258	1072
Lewis	1	1	0	0	0	0	0
Livingston	4	3	2	4	2	0	0
Madison	2	0	0	0	0	10	0
Monroe	1049	618	735	755	469	86	15
Montgomery	67	54	64	37	28	25	18
Nassau	2744	2590	3063	3059	3113	3497	4553
New York	1961	1164	1925	3024	4093	2523	1664
Niagara	258	141	52	16	27	74	90
Oneida	49	35	22	99	48	22	17
Onondaga	1460	1345	1263	774	464	107	13
Ontario	2	3	2	0	1	0	2
Orange	301	247	313	210	164	99	264
Orleans	0	0	1	1	0	2	1
Oswego	39	11	15	2	4	31	76
Otsego	12	3	2	0	14	3	0
Putnam	72	21	31	38	92	148	56
Queens	136	127	579	1324	1464	753	554
Rensselaer	111	51	66	59	81	71	92
Richmond	59	71	78	112	182	143	195
Rockland	227	156	154	227	222	176	155
St. Lawrence	12	14	11	2	0	1	7
Saratoga	153	145	70	33	12	34	70
Schenectady	549	746	729	645	468	181	152
Schoharie	7	0	9	8	10	11	0
Schuyler	2	0	0	0	0	0	0
Seneca	0	2	0	0	0	0	0
Steuben	9	6	2	1	3	0	3
Suffolk	2231	2353	2830	3365	3451	2110	1550
Sullivan	63	50	27	42	25	23	31
Tioga	23	4	1	2	1	2	0
Tompkins	27	6	4	5	5	0	3
Ulster	74	19	24	34	23	48	94
Warren	34	43	13	0	2	11	22
Washington	13	0	10	1	2	1	0
Wayne	0	1	1	1	3	8	5
Westchester	996	808	713	927	620	541	740
Wyoming	1	3	7	10	13	3	3
Yates	0	1	0	1	0	0	1
Judicial District							
New York City (1, 2, 11)	4,679	2,991	5,627	8,972	11,875	6,325	3,755
District 3	672	551	632	630	444	434	439
District 4	932	1,143	973	800	559	335	329
District 5	1,645	1,460	1,327	888	528	170	123
District 6	312	173	38	22	31	31	33
District 7	1,082	634	742	762	478	94	27
District 8	3,994	2,665	3,176	4,288	4,150	1,348	944
District 9	1,706	1,301	1,277	1,545	1,201	1,058	1,270
District 10	4,975	4,943	5,893	6,424	6,564	5,605	6,103
Total State	19,997	15,861	19,685	24,331	25,830	15,400	13,023

Source: Standards and Goals Summer Inventory of Pending Civil Actions in Supreme Court – 1975, 1976, 1977, 1978, 1979, 1980, and 1981. Figures exclude uncontested matrimonials.

Table 6

(Partial)

STANDARDS AND GOALS

Percentage of Civil Actions in Supreme Court Pending Longer Than Eighteen Months and Longer Than Twelve Months by County, Judicial District and Year

Summer 1975, 1976, 1977, 1978, 1979, 1980, 1981

	Pending Longer Than 18 Months				Pending Longer Than 15 Months*		
County	**Summer 1975**	**Summer 1976**	**Summer 1977**	**Summer 1978**	**Summer 1979***	**Summer 1980***	**Summer 1981***
Albany	10.1	4.9	8.4	9.0	13.9	15.4	16.2
Allegany	2.1	4.7	2.2	6.8	13.1	0.0	16.6
Broome	14.4	1.2	0.0	0.5	0.3	0.0	1.2
Bronx	33.1	15.6	15.0	33.6	45.0	30.7	21.1
Cattaraugus	1.4	6.7	12.9	17.1	11.5	0.0	1.5
Cayuga	6.3	0.0	0.0	0.0	0.0	0.0	2.1
Chautauqua	18.6	7.7	7.8	7.3	14.8	16.9	23.4
Chemung	16.0	11.6	4.2	0.0	2.2	0.0	1.3
Chenango	5.9	0.0	0.0	0.0	0.0	0.0	0.0
Clinton	10.9	6.2	1.9	6.0	8.5	2.5	7.0
Columbia	8.2	8.1	5.6	11.3	7.1	4.0	4.2
Cortland	7.1	0.0	0.0	0.0	6.2	0.0	0.0
Delaware	2.6	14.6	1.3	10.7	0.0	0.0	0.0
Dutchess	2.7	3.8	3.8	7.9	13.9	11.0	8.3
Erie	30.4	28.4	34.1	59.8	63.8	34.4	30.0
Essex	14.5	12.0	2.9	3.0	8.1	16.6	17.8
Franklin	16.7	14.3	10.0	33.9	17.6	34.9	12.2
Fulton	8.6	11.1	5.6	7.2	5.4	5.2	7.7
Genesee	3.9	0.0	4.0	6.8	5.4	20.4	10.7
Greene	9.9	16.4	12.6	6.0	3.4	5.8	5.0
Herkimer	4.2	0.7	0.6	1.7	6.1	1.8	0.9
Jefferson	27.8	12.2	3.3	1.1	0.9	0.0	4.3
Kings	7.4	5.4	16.2	29.6	51.0	33.4	22.2
Lewis	3.4	0.0	0.0	0.0	0.0	0.0	0.0
Livingston	1.8	0.0	0.0	0.0	3.3	0.0	0.0
Madison	0.0	0.0	0.0	0.0	0.0	16.6	0.0
Monroe	9.3	9.4	11.2	17.9	19.7	4.2	1.9
Montgomery	19.2	16.8	10.3	2.5	11.2	8.9	11.3
Nassau	25.4	17.9	25.4	26.7	31.0	33.7	36.5
New York	26.6	12.5	11.6	18.6	28.4	27.2	25.7
Niagara	21.4	12.5	2.6	1.7	3.0	12.0	18.2
Oneida	1.1	1.2	1.8	10.7	4.3	2.5	2.7
Onondaga	32.9	30.0	28.0	19.4	21.7	4.1	0.7
Ontario	0.0	0.0	0.0	0.0	1.6	0.0	1.7
Orange	15.4	8.5	17.2	10.4	14.9	4.5	20.1
Orleans	0.0	0.0	0.0	0.0	5.5	0.0	5.5
Oswego	9.3	1.5	6.2	0.8	0.0	2.1	13.0
Otsego	8.7	0.0	0.0	0.0	6.4	1.5	0.0
Putnam	26.5	10.1	2.3	0.5	20.7	31.9	17.0
Queens	6.8	2.0	0.7	10.7	23.1	13.1	16.9
Rensselaer	16.3	8.9	3.7	5.8	10.1	10.9	21.5
Richmond	16.3	12.6	10.3	10.8	17.9	11.4	22.3
Rockland	12.1	5.4	6.7	7.7	11.7	14.5	13.0
St. Lawrence	6.6	5.9	0.0	2.8	0.0	1.3	2.7
Saratoga	10.3	9.2	1.8	1.5	2.8	3.6	13.6
Schenectady	19.3	26.1	31.8	37.3	39.7	12.4	14.6
Schoharie	10.5	0.0	7.3	4.8	15.7	25.0	0.0
Schuyler	33.3	0.0	0.0	0.0	0.0	0.0	0.0
Seneca	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Steuben	12.3	8.9	6.1	0.0	1.6	0.0	3.3
Suffolk	38.6	32.0	33.4	34.1	43.2	33.7	24.0
Sullivan	18.9	9.8	5.8	4.9	6.9	4.8	9.6
Tioga	25.0	7.7	0.0	2.9	4.3	2.2	0.0
Tompkins	11.6	2.5	2.7	0.9	2.7	0.0	1.4
Ulster	5.4	0.7	1.3	1.7	2.3	0.5	10.9
Warren	14.2	17.1	7.6	0.0	0.0	1.8	14.1
Washington	10.0	0.0	1.7	0.0	3.2	0.0	0.0
Wayne	0.0	0.0	1.6	0.0	2.9	2.9	0.0
Westchester	27.7	14.2	9.8	16.1	14.3	15.7	20.4
Wyoming	0.0	9.5	10.3	18.4	20.0	11.7	10.0
Yates	0.0	6.3	0.0	0.0	0.0	0.0	16.6
Judicial District							
New York City (1, 2, 11)	20.9	8.5	11.2	21.9	35.8	26.5	22.6
District 3	10.9	5.8	6.7	6.8	10.0	10.0	13.8
District 4	15.4	18.7	19.4	23.7	23.6	9.5	12.5
District 5	24.1	21.8	20.6	15.2	14.0	3.0	3.5
District 6	13.2	6.2	1.6	0.9	1.9	1.0	1.0
District 7	8.8	8.3	9.8	16.0	17.1	3.4	1.9
District 8	28.6	25.0	30.6	53.1	57.6	30.4	27.0
District 9	20.3	10.9	9.8	12.4	14.2	14.5	17.9
District 10	30.9	24.1	29.2	30.2	36.6	33.7	32.1
Total State	22.4	15.4	17.9	25.0	33.4	24.3	23.3

*These Summer 1979, Summer 1980 and Summer 1981 figures show Civil Actions which were pending longer than 15 months. This reflects the current standard for Civil Actions. This breakdown is not available for pre-1979 figures.

Table 6

(Concluded)

STANDARDS AND GOALS

Percentage of Civil Actions in Supreme Court Pending Longer Than Eighteen Months and Longer Than Twelve Months by County, Judicial District and Year

Summer 1975, 1976, 1977, 1978, 1979, 1980, 1981

	Percentage Pending Longer Than 12 Months						
County	**Summer 1975**	**Summer 1976**	**Summer 1977**	**Summer 1978**	**Summer 1979**	**Summer 1980**	**Summer 1981**
Albany	25.3	22.3	29.5	38.8	30.0	31.3	23.2
Allegany	8.3	12.5	13.3	13.6	36.8	0.0	16.6
Broome	28.6	6.1	0.5	1.9	0.7	4.6	5.6
Bronx	50.5	25.3	29.6	47.7	51.2	38.7	25.2
Cattaraugus	13.5	18.9	23.5	30.0	15.3	2.2	1.5
Cayuga	22.5	0.0	0.0	0.0	0.0	0.0	2.1
Chautauqua	33.9	23.1	20.8	23.2	25.1	24.2	58.2
Chemung	32.3	40.9	12.1	1.9	3.8	0.6	7.4
Chenango	11.8	5.3	0.0	0.0	0.0	0.0	0.0
Clinton	16.4	14.6	2.8	13.3	10.9	6.7	12.0
Columbia	13.1	23.0	11.2	28.2	8.9	12.2	8.5
Cortland	14.3	0.0	0.0	8.3	12.5	3.4	0.0
Delaware	26.0	22.5	9.3	14.3	0.0	0.0	0.0
Dutchess	20.0	14.4	13.3	27.0	22.0	19.9	12.7
Erie	52.7	48.7	52.7	76.7	70.1	40.3	33.2
Essex	30.3	28.9	29.4	9.1	12.2	22.9	25.0
Franklin	30.0	26.4	28.9	59.7	21.1	43.3	12.2
Fulton	16.2	29.2	17.3	22.5	9.4	9.2	13.9
Genesee	15.7	3.3	60.0	16.2	16.2	24.4	14.2
Greene	25.7	37.9	29.5	11.9	10.3	10.2	9.0
Herkimer	12.0	8.6	6.4	9.3	9.7	3.7	0.9
Jefferson	46.9	21.6	13.1	2.1	0.9	6.0	8.6
Kings	17.1	20.5	37.7	50.6	58.5	44.0	26.6
Lewis	3.4	4.0	0.0	0.0	0.0	0.0	0.0
Livingston	7.3	5.4	2.6	10.3	6.6	0.0	0.0
Madison	3.8	0.0	0.0	0.0	0.0	23.8	0.0
Monroe	29.4	28.6	33.8	37.1	28.7	7.2	3.7
Montgomery	37.9	27.4	30.0	23.1	19.7	15.9	16.9
Nassau	43.5	39.7	43.0	42.4	39.6	40.1	45.7
New York	37.0	20.7	23.2	31.6	38.4	35.6	28.8
Niagara	37.9	23.5	13.3	4.6	9.0	20.6	22.5
Oneida	6.5	5.4	3.9	17.7	8.2	5.0	4.1
Onondaga	53.9	49.7	49.0	44.1	32.9	11.1	1.5
Ontario	2.2	5.1	3.3	0.0	1.6	0.0	3.5
Orange	37.6	30.0	34.8	31.7	23.5	13.9	29.5
Orleans	0.0	0.0	6.3	4.2	0.0	9.5	5.5
Oswego	17.3	8.5	9.3	1.5	1.9	13.0	24.8
Otsego	26.1	5.9	4.3	0.0	17.9	4.6	0.0
Putnam	52.9	12.5	17.9	20.2	31.2	42.6	26.5
Queens	10.6	3.7	14.0	33.1	32.3	25.9	21.0
Rensselaer	27.9	13.0	18.9	18.0	22.9	24.2	27.1
Richmond	20.1	17.9	19.5	24.2	29.2	25.9	28.0
Rockland	32.2	18.7	18.7	23.2	23.3	23.8	18.1
St. Lawrence	11.3	11.9	13.4	2.8	0.0	1.3	6.3
Saratoga	32.7	31.2	21.1	12.4	5.7	9.5	23.3
Schenectady	41.5	46.2	51.3	53.7	48.6	22.7	20.8
Schoharie	18.4	0.0	22.0	19.0	17.5	34.3	0.0
Schuyler	33.3	0.0	0.0	0.0	0.0	0.0	0.0
Seneca	0.0	15.4	0.0	0.0	0.0	0.0	0.0
Steuben	12.3	10.7	6.1	3.7	5.0	0.0	5.0
Suffolk	49.0	46.3	44.8	52.2	52.1	42.5	28.2
Sullivan	28.4	16.9	12.0	17.2	12.3	10.2	13.5
Tioga	38.3	7.7	2.6	5.7	4.3	4.4	0.0
Tompkins	22.3	5.0	3.6	4.7	4.5	0.0	2.1
Ulster	16.1	4.6	6.4	9.5	5.8	12.6	18.7
Warren	23.0	30.7	16.5	0.0	2.7	10.1	22.0
Washington	26.0	0.0	16.9	3.7	3.2	3.7	0.0
Wayne	0.0	1.7	1.6	2.1	4.4	11.9	10.6
Westchester	39.6	26.2	25.1	32.4	22.8	23.8	27.5
Wyoming	5.9	14.3	24.1	26.3	26.0	17.6	15.0
Yates	0.0	6.3	0.0	20.0	0.0	0.0	16.6
Judicial District							
New York City (1,2 & 11)	32.2	17.7	26.3	38.8	44.5	36.4	26.4
District 3	24.1	18.6	22.8	27.5	21.2	22.8	20.1
District 4	33.6	36.4	37.0	38.3	29.9	17.2	18.5
District 5	40.7	37.3	36.7	33.3	21.8	9.0	6.6
District 6	27.5	18.4	5.1	3.4	3.9	3.7	4.1
District 7	27.3	25.1	29.5	33.5	25.1	6.0	4.1
District 8	49.1	43.7	48.8	68.9	64.1	36.6	31.5
District 9	36.3	24.1	24.4	29.6	23.4	23.3	24.9
District 10	45.8	42.6	43.9	47.0	45.3	41.0	39.5
Total State	37.8	29.6	33.4	41.8	41.8	32.5	28.9

Source: Standards and Goals Summer Inventory of Pending Civil Actions in Supreme Court: 1975, 1976, 1977, 1978, 1979, 1980 and 1981 (excludes uncontested matrimonials).

Chapter 3

Court Operations

The operations of each of the 10 categories of courts described in Chapter 1 are discussed statistically in this chapter of the report. Operating information for the Appellate Courts, the Court of Claims, and the Surrogate's Courts for 1981 is presented on a courtwide basis. Court operation with respect to criminal proceedings, civil actions, and proceedings in the Family Court are discussed as separate topics.

3.1 The Court of Appeals

As noted in Chapter 1, the Court of Appeals is the highest court of the State. In 1981, 708 records on appeal were filed in the Court of Appeals, as shown in Table 7. During this period, 2,135 appeals and motions were decided. The Court also heard oral arguments in 659 cases and decided 1,694 applications for leave to appeal.

Of the 706 appeals decided, 529 involved civil matters and 177 were criminal cases, as shown in Table 8. The basis of jurisdiction in the Court of Appeals in 396 (75%) of the civil appeals disposed of was a reversal, modification, or dissent in the Appellate Divisions. 97 (18%) of the civil appeals were heard by permission of either the Appellate Divisions or the Court of Appeals.

In the 529 civil appeals disposed of, 369 (69%) judgments or orders were affirmed, 126 (24%) reversed, 25 (5%) modified, and 9 (2%) dismissed. Among the 177 criminal appeals disposed of, 121 (68%) judgments were affirmed, 36 (20%) reversed, and 9 (5%) modified, as shown in Table 8.

In deciding the 706 appeals, judges of the Court of Appeals wrote 524 opinions, as shown in Table 9. These consisted of 411 opinions of the Court, 29 concurring opinions and 84 dissenting opinions.

3.2 Appellate Divisions of the Supreme Court

The Appellate Divisions provide the first level of appeal from superior trial courts in addition to performing the other functions mentioned in Chapter 1. In 1981, 9,338 records on appeal were filed in the four Appellate Divisions, as shown in Table 10. There were 9,255 dispositions of judgments or orders appealed from, and the Appellate Divisions heard 4,812 oral arguments.

Of the 9,255 dispositions, 6,111 (66%) were affirmances, 802 (9%) were modifications, 1,479 (16%) were reversals without a new trial, and 58 (1%) were orders of new trials, as shown in Table 11.

In disposing of the 9,255 judgments or orders appealed from, the four Appellate Divisions wrote 442 full opinions, 44 *per curiam* opinions and 4,386 memorandum opinions, as shown in Table 12.

3.3 Appellate Terms of the Supreme Court

The Appellate Terms of the Supreme Court received 2,300 appeals and disposed of 1,756 in 1981, as shown in Table 13. The First and Second Departments together rendered 1,277 decisions, filed 1,174 *per curiam* opinions and wrote 96 memoranda (not filed). 5,263 motions were heard or submitted.

3.4 Criminal Proceedings

Trial jurisdiction in criminal proceedings is vested in different categories of courts, depending on the type of proceedings. The volume and the nature of the criminal proceeding in each category is discussed below.

3.4.1 The Supreme Court Within the City of New York

Table 14 presents a summary of the 1981 activities of the Supreme Court in New York City. The entries (except for items 1 and 9 through 12) are in terms of defendant-indictments. As such, each defendant is considered separately for each indictment with which he or she is charged. For example, if two indictments apply to the same defendant, each is counted separately, and two dispositions are recorded; if one indictment applied to two defendants, the action concerning each defendant is counted, and two dispositions are recorded. In 1981, a total of 22,796 defendant-indictments and superior court informations were filed in Supreme Court in New York City. During the previous 12-month period, 19,602 were filed.

Dispositions in 1981 totaled 22,783. Table 15 shows the number and percent of defendant-indictments disposed of by nature of disposition for each county in New York City. The proportion of dispositions by trial decreased from 12.1 percent in calendar year 1980 to 12.0 percent in 1981.

A total of 10,778 felony defendants were awaiting disposition of their cases in Supreme Court in New York City at the end of 1981. This compares with 10,051 pending at the end of 1980. A breakdown of these defendants by county is presented in Table 16.

The New York City Department of Correction reports that, at the end of December 1981, a total of 4,395 defendants were being detained whie awaiting disposition or sentencing in Supreme Court in New York City. Table 17 shows the number and percent detained by County.

3.4.2 The Supreme Court and County Courts Outside the City of New York

Although the Supreme Court and County Courts outside the City of New York possess civil and criminal jurisdiction, the caseload of the Supreme Court is largely civil and that of the County Courts is largely criminal. The defendant—indictments reported here were returned mainly by grand juries of the Supreme Court. All other criminal proceedings occurred principally in the County Courts.

There were 18,791 defendant-indictments and superior court informations filed outside of New York City in 1981. Table 18 presents a summary of defendant-indictments, arraignments, dispositions, and sentences for this period by county and district.

Table 19 shows the number and percent of defendant-indictments disposed of by nature of disposition in 1981 and comparable 1980 figures. There were 18,867 dispositions in 1981. The table shows that 13.5 percent of dispositions were by dismissal, 8.2 percent by trial, and 78.3 percent by plea.

As reported by local detention facilities, 1,425 detainees were awaiting action in Supreme Court and County Courts outside the City of New York at the end of December 31, 1981. Of these, 75 had been detained over one year. This compares with 1,225 detainees awaiting action in the same courts at the end of 1980—12 for over one year. Table 20 shows the number of defendants detained by judicial district.

3.4.3 The Criminal Court of the City of New York

With an authorized strength of 98 judges, the Criminal Court of the City of New York has jurisdiction over misdemeanors and lesser criminal offenses. It is also the arraignment court for felonies.

Table 24 shows the breakdown of 554,616 summons cases filed in 1981 and lists them with the 1980 figures.

Table 25 lists the fines collected in 1980 and 1981 in both arrest and summons cases.

Table 21 summarizes the court's activities in arrest cases for 1981. The total number of filings during 1981 was 189,051 compared with 182,968 filings in 1980.

There were 182,109 cases disposed of in 1981, compared wtih 178,333 dispositions in 1980. Table 22 presents a listing of dispositions by number and percent by county for these two years.

According to the New York City Department of Correction 1,510 defendants were detained while awaiting action in Criminal Court of the City of New York at the end of 1981. Table 23 lists the number of detainees at the end of 1980 and 1981 by stage of processing.

3.4.4 The District Courts and the Courts in Cities Outside the City of New York

There were 174,837 criminal and quasi-criminal cases (defendants) disposed of in the District Courts and the courts in cities outside the City of New York in 1981. 58 percent of these dispositions occurred in the 10th district in which the two District Courts are located. Table 26 lists arraignments, dispositions by stage and by district and region.

During 1981, there were 331,382 traffic cases disposed of in the District Courts and the courts in cities outside the City of New York. Slightly under 60 percent of these dispositions occurred in the 10th district in which the two District Courts are located. Table 27 lists traffic dispositions by stage and by district.

3.5 Civil Actions and Proceedings

3.5.1 Supreme Court

In 1981 a total of 66,623 civil cases were received in Supreme Court statewide (excluding uncontested matrimonials) while 68,119 cases were disposed of.

Table 29 lists the number of actions received by type of action in each county, district and region of the state. This is a 3.8 percent increase over 1980.

Table 30 lists the 1981 dispositions by type of action in each county, district and region of the state. The 68,119 dispositions in 1981 is a decrease of 12.6 percent from 1980. In addition, there were 58,012 uncontested matrimonial cases disposed of statewide: 28,211 cases in New York City and 29,801 cases upstate.

Table 31 lists actions disposed of by stage and nature and by county and region. Statewide figures (excluding uncontested matrimonials) indicate that of the 68,119 cases disposed of, 74 percent were before trial, 8 percent disposed of during trial and 18 percent disposed of after proof was completed. After subtracting from the total outflow of 68,119 cases those cases disposed of by transfer and the cases marked off or stricken from the calendar, the 1981 net dispositions decreased 13.3 percent statewide from 1980 figures. Of these net dispositions 66.2 percent were disposed of before trial, 10.4 percent during trial and 23.4 percent after proof was completed. This is a decrease of 11.1 percent, 25.6 percent and 12.7 percent respectively from comparable 1980 statewide figures.

Table 32 lists the actions received, disposed, ending pending, change in pending and projected average age by county, district and region. The projected average age is stated in months. The statewide average for the projected average age of a civil action from the filing of a trial note of issue (non-matrimonial) in Supreme Court through disposition of that note is 8 months. By county this figure varies widely from 2 months to 14 months.

3.5.2 County Courts

While the bulk of civil actions take place in Supreme Court, there are civil terms in the County Courts. There are no County Courts in New York City. (See Figure 5.)

Table 33 lists the number of actions received by type of action in each county, district and region. 89 percent of the filings are in the 9th and 10th districts, an increase from 85 percent in 1980.

Table 34 lists the 1981 dispositions by type of action in each county, district and region. 84 percent of the dispositions are in the 9th and 10th districts as compared to 79 percent in 1980. Table 35 shows the actions disposed of by stage and nature.

3.5.3 The Civil Court of the City of New York

3.5.3.1 Trends

The volume of actions received and actions disposed of in the Civil Court of the City of New York continued to decrease in 1981. The number of pending actions also decreased (by 10.4%) as shown in Figure 6.

The trend of an increasing number of summary proceedings received and disposed of over the previous 10 years was reversed in 1977, but that reversal was short lived. Since 1978, the trend of an increasing number of summary proceedings received and disposed of was continued. (See Figure 7.)

Although the number of summary proceedings pending appears to have increased from 1975 through 1977 (Fig. 7), it should be noted that through the judicial year 1973-74, the pending figure was measured as of June 30, while for 1975 through 1978, the measuring date was December 31. Court caseloads of all types are usually at their lowest in June, just before the summer vacation period. During 1975, the pending caseload of summary proceedings actually decreased from 4,042 on January 1 to 3,125 on December 31. Thereafter the number of pending cases increased, so that 5,160 cases on December 31, 1977 represented an increase of 1,030 cases, or 25 percent. For the first time since the inception of calendar year reporting, the caseload of pending summary proceedings decreased in 1978, but only for that year. There were 6,108 cases pending at the end of 1981, an increase of 898 cases or 17.2 percent over 1980.

3.5.3.2 Actions and Special Proceedings

3.5.3.2.1 Actions and Special Proceedings Received

In 1981, the number of actions and special proceedings received decreased in all counties ranging from a low of almost 3 percent in Bronx to a high of about 27 percent in New York. The citywide total of 36,367 represented an overall decrease of 5,371 or 13 percent over 1980.

The decrease in actions and special proceedings received (and in actions and special proceedings disposed of, discussed below) reflects the effect of the first full year of operation of the arbitration program. This program is discussed in Chapter 4.

About 16.8 percent of these actions were received in the Housing Part, as shown in Tables 37 and 40.

3.5.3.2.2 Actions and Special Proceedings Disposed of

There were 37,118 actions disposed of in 1981, down from 48,848 in 1980. This is a decrease of 24 percent, or 11,730 dispositions, from 1980. All counties registered decreases, with the exception of Richmond in which dispositions remain constant from 1980. Decreases range from a low of 0.3 percent in Bronx to a high of 36 percent in New York. The figure for cases disposed are set forth in Tables 38, 39 and 40.

3.5.3.2.3 Projected Average Age of Action at Disposition

Table 40 shows a projected average age of 4.5 months citywide, a decrease of 0.4 month from 1980.

3.5.3.2.4 Pending Caseload

As shown in Table 40, the pending caseload decreased by 1,445 actions in 1981. The increase in the pending caseload of 2.1 percent in Kings and 10.7 percent in Queens could not offset the decreases ranging from a low of 15.4 percent in Richmond to a high of 27.6 percent in New York. The result was a net decrease of 10.4 percent citywide.

3.5.3.3 Summary Proceedings

Figure 7 depicts the revival of the upward trend of the previous years in summary proceedings received and disposed. The decrease in 1977 was only for the one year. In 1978 the figure again increased and has continued to do so.

3.5.3.3.1 Summary Proceeding Received

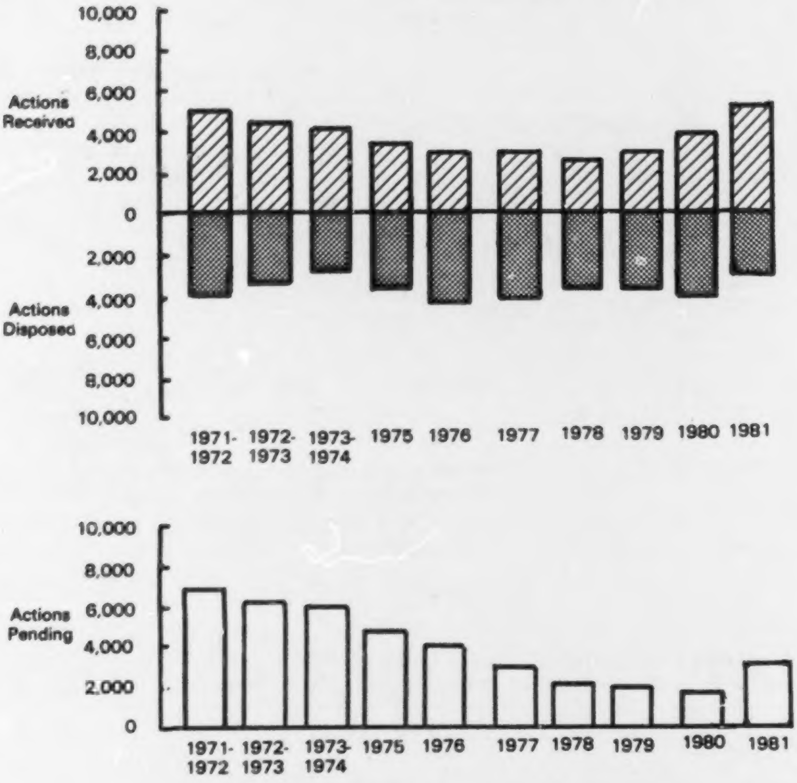
Most of these proceedings are landlord and tenant proceedings for nonpayment of rent, 94.6 percent of which were of the residential type. The Office of Court Administration, for statistical purposes, counts a summary proceeding as received only if an answer is filed, since it is placed on a calendar only after such a filing.

In 1981, there were 330,352 petitions filed; 37

Figure 5

THE COUNTY COURTS
OUTSIDE THE CITY OF NEW YORK – CIVIL TERMS
Actions Received, Actions Disposed, Actions Pending

*Last Ten Years**



*The bars for 1975 through 1981 are based on the calendar year; the bars for earlier years are based on judicial years, beginning on July 1 of one year and ending on June 30 of the following year.

percent of the grand total were received for placement on a calendar and 11 percent resulted in the entry of a default judgment by the clerk, followed by the issuance of a warrant of possession.

The numbers shown in Tables 41 and 44 refer only to those petitions which were placed on a calendar. 122,368 summary proceedings were received in 1981. This is an increase of 15,129 or 14.1 percent over the comparable figure for 1980.

3.5.3.3.2 Summary Proceedings Disposed of

As shown in Table 42, a total of 121,914 summary proceedings were disposed of in 1981, up 14,675 or 13.7 percent from 1980. Table 43 shows dispositions by stage and nature, while Table 44 shows the breakdown of filings and dispositions by jury and non-jury.

3.5.3.3.3 Pending Caseload

During 1981, the pending caseload of summary proceedings increased by 898 proceedings, or 17.2 percent. This is reflected in Table 44.

3.5.3.4 Special Terms

3.5.3.4.1 Special Term Part I

Special Term Part I of the Civil Court of the City of New York deals with contested motions. In 1981, these motions decreased by 2,380 or 4.3 percent as compared with 1980. The greatest numerical decrease occurred in the number of motions denied. All other categories of contested motions also registered decreases in 1981 from 1980. This is reflected in Table 45.

3.5.3.4.2 Special Term Part II

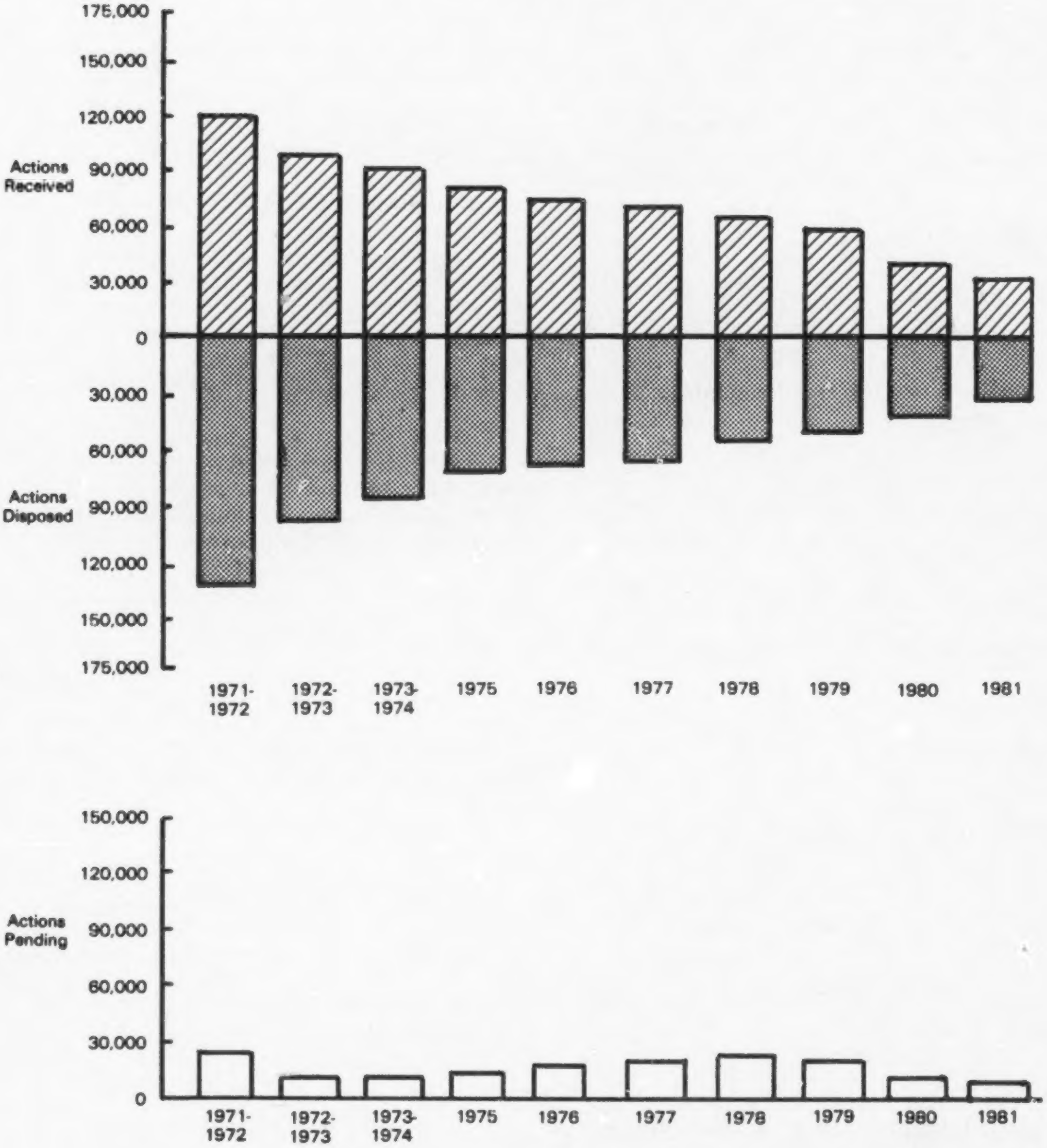
Special Term Part II of the Civil Court of the City of New York deals with *ex parte* orders, as shown in Table 46. The 181,403 *ex parte* orders reported in 1981 were an increase of 24,227, or 15.4 percent over 1980.

3.5.4 The District Courts and the Courts in Cities Outside the City of New York

Table 47 lists the disposition of actions and summary

Figure 6

THE CIVIL COURT OF THE CITY OF NEW YORK
Actions Received, Actions Disposed, Actions Pending
*Last Ten Years**



*The bars for 1975 through 1981 are based on the calendar year; the bars for the earlier years are based on judicial years, beginning on July 1 of one year and ending on June 30 of the following year.

proceedings by nature, number of mistrials, and small claims received and disposed of by district. Of the statewide total of 97,810, about 55 percent of actions and summary proceedings dispositions as well as small claims dispositions occurred in the Tenth District which contains the state's two District Courts.

3.6 The Court of Claims

In 1981, the Court of Claims has 17 authorized judges. 1,330 claims were filed and 1,103 were disposed. 908 of the dispositions were by dismissal and 195 resulted in awards. In addition to the 1,103 claims disposed of, 1,678 motions were decided by the court. The pending caseload at the end of 1981 was 3,052, an increase of 226 or 8 percent from the 2,826 cases pending at the end of 1980. Figure 8 shows the volume of cases received, cases disposed of, and cases pending in the Court of Claims for the last 10 years.

3.7 The Surrogates' Courts

Figure 9 indicates that there has been little increase or decrease in the business of the Surrogates' Courts during the last five years. There were 40,796 petitions to probate wills in the 1981 calendar year, a decrease of 254 from 1980; 13,073 letters of administration were granted, an increase of 31 from 1980; orders of adoption decreased by 202, with 2,770 granted in 1981; and there were 12,137 voluntary accountings filed, an increase of 671 over the 1980 calendar year. Additional details of the operations of the Surrogates' Courts are given in Table 48.

3.8 Family Court

3.8.1 Overview of the Work of the Court

Family Court in New York State has jurisdiction over matters involving children and families. These include primarily cases of juvenile delinquency, child protection, foster care, minors in need of supervision, adoptions, support of dependent relatives, paternity matters and family offenses.

The statistical system for measuring caseload activity in the Family Court dating from the Court's establishment on September 1, 1962, remained in effect through the end of 1974, when it was substantially revised. Although the revisions allow the measurement of activity more completely and realistically than before, the data cannot always be related to data collected before the 1975 revision. The data collected from the new statistical system are presented in Table 49. This table presents the activity of Family Court in terms of "additions" and "deductions" to the actively pending caseload, by type of proceeding. The column titled "Petitions Added During Period" includes petitions filed, transferred in and referred from other courts, as well as any warrant returned during the year. In like manner, the column titled "Petitions Deducted During Period" refers to all types of court dispositions, including peititons transferred out and proceedings in which warrants were issued.

The Child Protective, Juvenile Delinquency, PINS, and Family Offense disposition statistics (Tables 50 through 86) can be related to the material presented in all previous annual reports.

3.8.2 Child Protective Proceedings Involving Child Abuse

There were 5,843 original child protective petitions disposed of in New York State in 1981.

As shown in Table 50, in 3 percent of the original child protective cases disposed of during 1981, there was a finding that the child was abused (but not neglected). In 50 percent of the cases, there was a finding that the child was neglected (but not abused). In 1 percent of the cases, the child was found to be both abused and neglected, while in 40 percent of the cases the child was found to neither abused nor neglected.

Although the number of dispositions for child abuse was small, there is great interest in these most serious cases. Hence, the Legislature has directed the Office of Court Administration to collect and publish the variety of information on child abuse discussed below.

3.8.2.1 Disposition of Child Abuse Cases

1,490 original child protective proceedings involving child abuse were disposed of during 1981. A total of 639 or 43 percent, of these petitions were disposed of in New York City; 851 or 57 percent of the petitions were disposed of in courts outside New York City.

3.8.2.2 Age of Child

As shown in Tables 51 and 52, statistics indicate that a higher percentage of young girls were the subject of original abuse cases disposed of during 1981 than young boys. This trend was also true in the past. 46 percent of the children in child abuse cases in 1981 were under eight years of age.

3.8.2.3 Reasons for Petitions

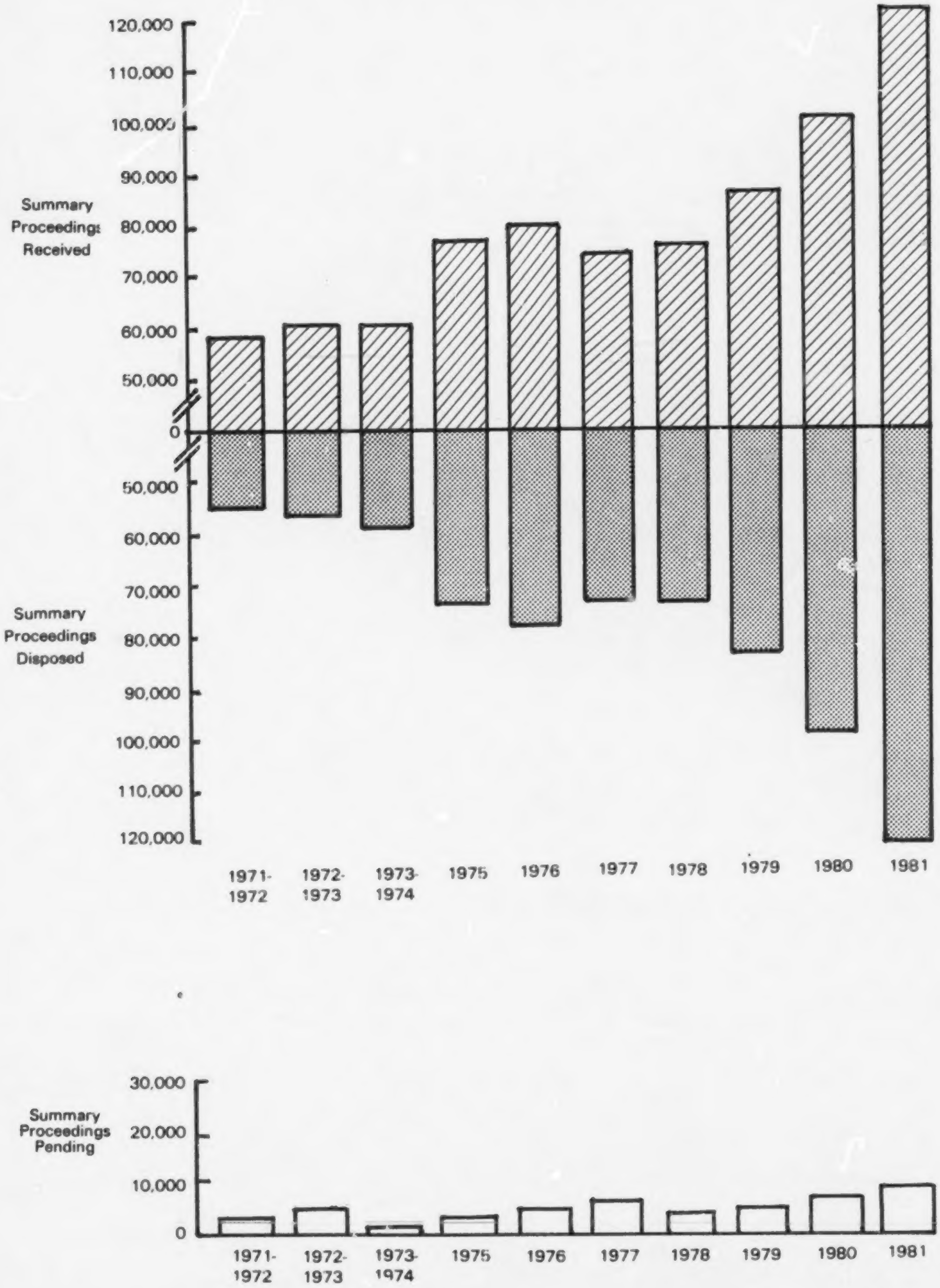
Physical abuse accounted for 47 percent of the reasons for child abuse petitions in New York City and 34 percent of the reasons for petitions in counties outside New York City, as shown in Tables 53 and 54. The second most common reason for child abuse petitions statewide was sex offense against child. This accounted for 34 percent of the reasons for child abuse petitions in New York City, while in counties outside New York City, sex offense against child accounted for 59 percent of the reasons for petition.

Figure 7

THE CIVIL COURT OF THE CITY OF NEW YORK

Summary Proceedings — Received, Disposed and Pending

*Last Ten Years**



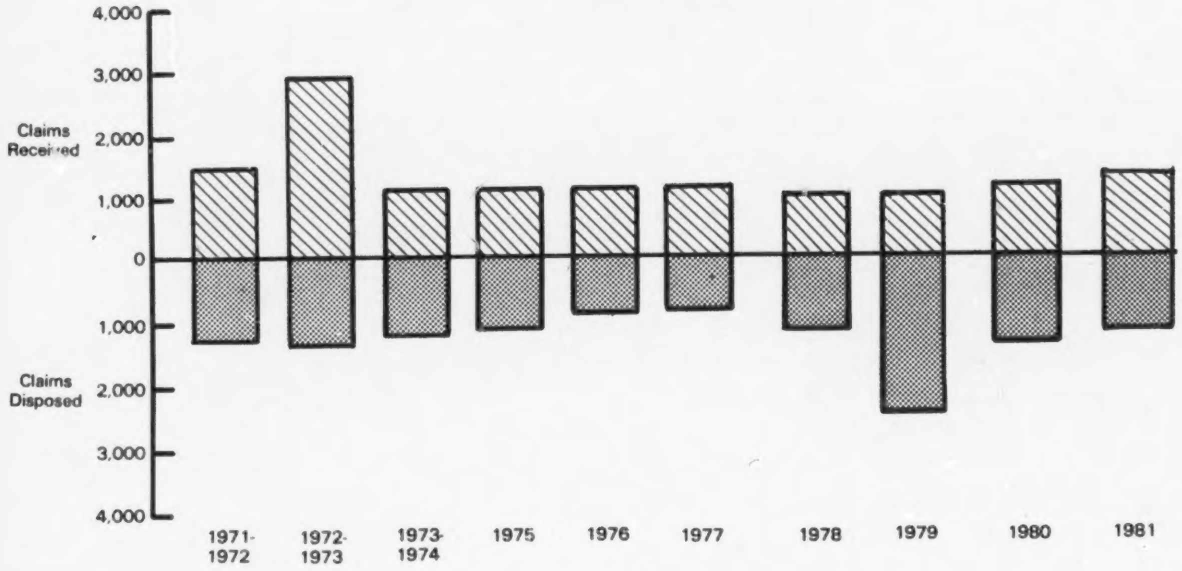
*The bars for 1975 through 1981 are based on the calendar year; the bars for the earlier years are based on judicial years beginning on July 1 of one year and ending on June 30 of the following year.

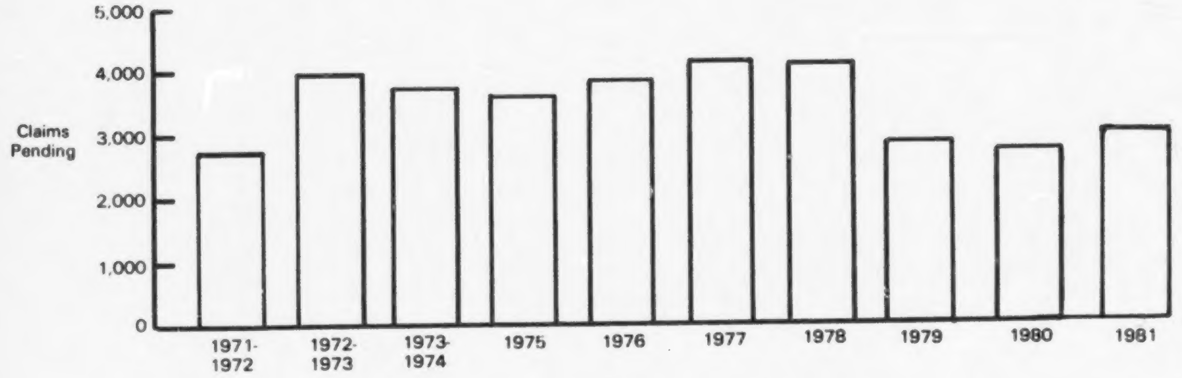
Figure 8

THE COURT OF CLAIMS

Claims Received, Claims Disposed, Claims Pending[1]

*Last Ten Years**

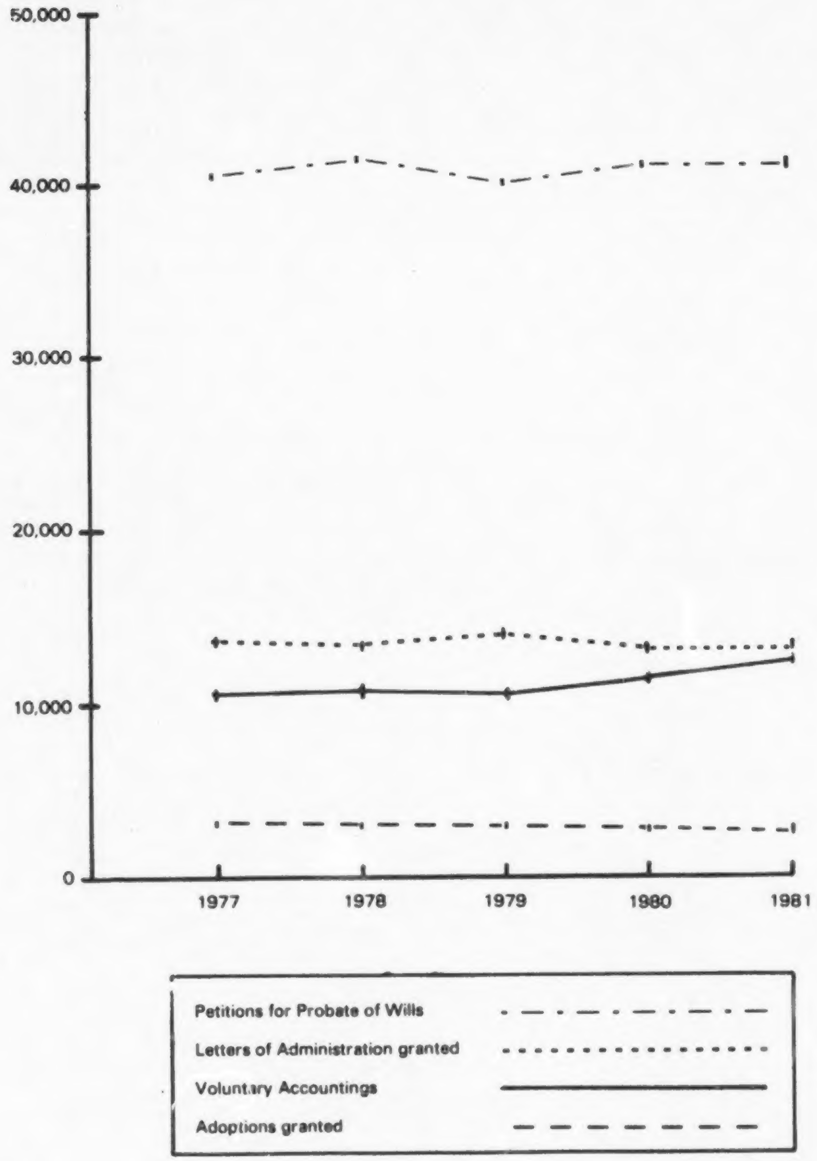




[1] Includes newly filed claims; claims held on calendar in which judgments have been entered after order of severance; and claims restored by order of the Court of Appeals, or by order of the Appellate Divisions or by order of the Court of Claims.

*The bars for 1975 through 1981 are based on the calendar years; the bars for the earlier years are based on judicial years, beginning on July 1 of one year and ending on June 30 of the following year.

Figure 9
THE SURROGATES' COURTS
Selected Items
*Last Five Years**



3.8.2.4 Petitioners

As reported in previous years, the major sources of original petitions in child protective proceedings disposed of in 1981 were public social services agencies, which brought 91 percent of all petitions disposed of in this period. Public social services agencies were petitioners in a higher percentage of cases in counties outside New York City than in New York City (97% to 83%).

3.8.2.5 Temporary Removal

Of the 1,490 children who were subjects of original child protective petitions involving child abuse disposed of during 1981, 594 or 40 percent were not removed from their homes, as shown in Tables 57 and 58, and 896 were. 38 or 3 percent were removed (only) before the filing of a petition because of emergency circumstances. 618 children, or 41 percent were removed from their homes (only) after the filing of a petition, and 240 or 16 percent both before and after.

On a statewide basis, temporary removal of a child after petition was terminated within 30 days in 24 percent of such cases disposed of during 1981. In 49 percent of the cases temporary removal ended within 90 days. The duration of temporary removal was similar for boys and girls.

As shown in Tables 57 and 58 there was little variation in the duration of temporary removal between New York City and the other counties of the State for original child protective proceedings involving child abuse disposed of during 1981. 27 percent of temporary removals after petition were terminated within 30 days in counties outside New York City, compared with 31 percent in New York City.

Some of the reasons for the duration of temporary removal may be found in the statistics on the times between the filing of a petition and the initial fact-finding hearing and between the initial fact-finding hearing and the dispositional hearing, as discussed below.

3.8.2.6 Length of Time Between Filing of Petition and Initial Fact-Finding Hearing

A fact-finding hearing occurred in about 83 percent of all child abuse cases disposed of in 1981, as shown in Tables 59 and 60. In New York City 72 percent of the cases had such a hearing, compared with 93 percent of the cases in counties outside New York City.

The fact-finding hearing was held within 30 days of the filing of a petition in 42 percent of the child abuse cases with a hearing. However, in New York City only about 20 percent of the cases had the fact-finding hearing within 30 days, as contrasted with 54 percent within 30 days in counties outside New York City.

In 1 percent of the cases with a hearing, the hearing was not held until more than one year after filing.

3.8.2.7 Number of Adjournments Between Filing of Petition and Initial Fact-Finding Hearing

One reason for the delay in reaching a fact-finding hearing in 1981 was that 78 percent of all child abuse cases with a fact-finding hearing had at least one adjournment before the hearing, as shown in Tables 61 and 62. Eight percent had nine or more adjournments.

98 percent of all New York City cases had one or more adjournments, and 12 percent had nine or more adjournments. This contrasts with 67 percent of the cases in counties outside New York City with one or more adjournments and 4 percent with nine or more adjournments.

3.8.2.8 Length of Time Between Initial Fact-Finding Hearing and Dispositional Hearing

29 percent of the cases of child abuse disposed of during 1981 had a delay of 30 days or less between the initial fact-finding and the dispositional hearings, as shown in Tables 63 and 64. However, only 14 percent of the child abuse cases in New York City experienced such delay, as compared with 41 percent of the cases in counties outside New York City.

3.8.2.9 Number of Adjournments Between Initial Fact-Finding Hearing and Dispositional Hearing

Again, adjournments are one reason for delay in reaching a disposition after a fact-finding hearing has been held, as shown in Tables 65 and 66. 68 percent of all child abuse cases disposed of during 1981 had one or more adjournments between the initial fact-finding and dispositional hearings.

3.8.2.10 Findings

Of the 1,490 original child protective proceedings involving child abuse disposed of in 1981, 1,246 started with allegations of abuse only, as shown in Table 67. Of these petitions alleging abuse, 35 percent resulted in a finding of abuse, 28 percent in a finding of neglect, 3 percent in a finding of both abuse and neglect, and 34 percent in a finding of neither. 40 percent of these findings were based on the establishment of facts sufficient to sustain the petition, and 60 percent were based on the consent of all parties.

214 of the 1,490 original child protective petitions involving child abuse disposed of during 1981 started with allegations of both abuse and neglect, as shown in Table 68. In 11 percent of these cases, the child was found to both abused and neglected, and in 20 percent the child was found to be abused. In 39 percent of these cases the child was found to be neglected, and in 30 percent the child was found to be neither abused nor

neglected. 36 percent of the findings cited above were based on the establishment of facts sufficient to sustain the petition, and 64 percent were based on the consent of all parties.

A total of 4,383 petitions alleging neglect resulted in only 19 findings of child abuse and 11 findings of both abuse and neglect, as shown in Table 69.

3.8.2.11 Disposition

35 percent of 1,490 child protective petitions involving child abuse were either withdrawn, dismissed or suspended during 1981, as shown in Tables 70 and 71. 33 percent resulted in placement during this time period. Two abuse cases resulted in a disposition of probation. 9 percent resulted in an order of protection.

3.8.2.12 Age of Disposed of Cases

An indication of the age of child abuse cases disposed of during 1981 is given in Table 72. It will be noted that 4 percent were filed before 1981. In New York City, as well as counties outside New York City, 4 percent of the cases were filed before 1981.

3.8.2.13 Use of Child Abuse Part

Of the 1,490 cases in which child abuse was alleged in the original petition, 51 percent were tried in a special child abuse part in a Family Court, as shown in Table 73.

3.8.3 Persons-In-Need-Of-Supervision-Proceedings

During 1981, 9,949 original proceedings involving persons in need of supervision were disposed of in the Family Courts. Of those dispositions, 2,948 were made in New York City and 7,001 in other counties of the State.

3.8.3.1 Detention

As shown in Tables 74 and 75, 19 percent of the alleged persons in need of supervision were detained during Family Court original proceedings disposed of during 1981. 14 respondents in supervision proceedings, or less than 1 percent were detained (only) before the filing of a petition. About 19 percent (1,857) of all respondents were detained (only) after the filing of a supervision petition. 10 were detained both before and after the filing of the petition.

On a statewide basis, post-petition detention in supervision cases was terminated within 30 days for 47 percent of those detained, as shown in Table 74 and 75. It was terminated within 90 days for 85 percent of the detainees. The percent of respondents from counties outside New York City whose detention was terminated in 30 days or less was 53 percent as compared to 41 percent for respondents from New York City whose detention was terminated in 30 days or less.

3.8.3.2 Adjudication and Disposition

In 5,697 or 57 percent of the original supervision petitions disposed of during 1981, there was no adjudication that the person was in need of supervision, as shown in Tables 76 and 77. In 386 or 4 percent of the cases an adjudication was made, but judgment was suspended or the respondent was discharged with a warning. 2,432 or 24 percent of the supervision proceedings culminated in an order of probation. Proceedings that resulted in some form of placement occurred in 1,433 or 14 percent of the cases.

A slightly higher percentage of cases involving girls resulted in no adjudication that the person was in need of supervision than cases involving boys. A higher percentage of cases in which the judgment was suspended or the respondent discharged with a warning occurred in counties outside the City of New York (5%) than in New York City (.4%). Probation also was used in a greater percentage of cases in counties outside the City of New York (32%) than in New York City (6%).

3.8.4 Juvenile Delinquency Proceedings

During 1981, 16,642 original juvenile delinquency cases were disposed of in the Family Court. As in previous years, a much higher percentage of the delinquency proceedings involved boys (89%) than girls (11%).

3.8.4.1 Reasons for Petition

The distribution of the reasons reported for delinquency petitions during 1981, shown in Table 78, was substantially the same as in previous years. Allegations of robbery were more frequent, however, in New York City than outside New York City, and allegations of burglary and larceny (not of an auto) were the basis of a greater percentage of delinquency petitions in counties outside New York City than in the City.

3.8.4.2 Detention

As shown in Tables 79 and 80, 69 (or .4%) of the alleged delinquents were detained (only) before the filing of a petition in original cases disposed of during 1981.

Eighteen percent (2,926) of the children who were respondents in original delinquency proceedings disposed of during 1981 were detained (only) after the filing of a petition, while another 149 (1%) were detained both before and after.

In 66 percent of the post-petition detentions, the detention was terminated within 30 days as shown in

Tables 79 and 80. Detention was terminated within 90 days in 92 percent of the cases.

3.8.4.3 Adjudication and Disposition

In 10,486 or 63 percent of the original juvenile delinquency petitions disposed of during 1981, there was no adjudication of delinquency, as shown in Tables 81 and 82. In 725 or 4 percent of the cases an adjudication was made, but judgment was suspended or the respondent was discharged with a warning. Nineteen percent or 3,175 of the proceedings culminated in an order of probation. Proceedings that resulted in some form of placement occurred in 2,255 or 14 percent of the cases. 2 percent of 383 cases resulted in a discharge of the delinquency petition to another petition or in a discharge to a mental hygiene institution or school for defectives.

A higher percentage of cases involving girls (69%) than boys (62%) resulted in no adjudication of delinquency. A slightly higher percentage of cases in which the judgment was suspended or the respondent discharged with a warning occurred in counties outside the City of New York (6%) than in New York City (2%). Probation also was used in a greater percentage of cases in counties outside the City of New York (22%) than in New York City (14%).

3.8.5 Family Offense Proceedings

Chapter 449 of the Laws of 1977, effective September 1, 1977, prohibited the filing of a subsequent Family Offense proceeding in an alternative court for the same offense once a choice of forum had been made by the petitioner/complainant.

In 1981, a total of 20,358 family offense petitions were disposed of in the Family Courts of New York State.

3.8.5.1 Allegations of Petitions

The distribution of allegations reported for family offense petitions disposed of in Family Courts in 1981 is shown in Table 83. Allegations of assault (39%) and attempted assault (2%) accounted for 41 percent of all family offense allegations during the reporting period. Harassment was alleged in 28 percent and disorderly conduct in 20 percent of the petitions. The percentage of petitions alleging assault was higher in counties outside of New York City (42% to 36%).

3.8.5.2 Petitioners

Of the total family offense petitions disposed of in Family Court in 1981, wives were petitioners in 75 percent of the cases as shown in Table 84. Other sources of petitions were husbands (6%) and mothers (9%). Outside of New York City wives were petitioners in 77 percent of the cases and in 73 percent of the cases within the city.

3.8.5.3 Respondents

Statewide, husbands were respondents in 75 percent of the Family Court cases, a son or daughter in 11 percent, and a wife in 6 percent as shown in Table 84. In counties outside New York City husbands were respondents in 76 percent of the cases while in New York City they were respondents in 72 percent of the cases.

3.8.5.4 Dispositions

Of the 20,358 petitions disposed of in Family Courts in 1981, 60 percent were either dismissed (42%) or withdrawn (18%), while 39 percent resulted in the issuance of a final Order of Protection, as shown in Table 85.

Table 7
THE COURT OF APPEALS
Matters Submitted and Decided

January 1, 1981 through December 31, 1981

Applications Decided (C.P.L. 460.20 (3-b)[1]	1,694
Records on Appeal Filed	708
Motions Decided	1,429
Oral Arguments[2]	659
Appeals Decided	706

[1] Applications for leave to appeal in criminal cases; 92 of the 1,694 were granted. The total number of criminal applications assigned during the year 1981 was 1,795.

[2] Total includes appeals submitted.

Table 8
THE COURT OF APPEALS
Appeals Decided by Nature and Jurisdiction
January 1, 1981 through December 31, 1981

Civil Cases

Basis of Jurisdiction	Type of Disposition					Total
	Affirmance	Reversal	Modification	Dismissal	Other	
Reversal, Modification, Dissent in Appellate Division	288	84	17	7	...	396
Permission of Court of Appeals or Judge thereof	16	22	3	...	...	41
Permission of Appellate Division or Justice thereof	39	11	4	2	...	56
Constitutional question	6	2	...	...	...	8
Stipulation for judgment absolute	...	...	...	...	...	...
Other	20	7	1	...	...	28
Total	369	126	25	9	...	529

Criminal Cases

Basis of Jurisdiction	Type of Disposition					Total
	Affirmance	Reversal	Modification	Dismissal	Other	
Reversal, Modification, Dissent in Appellate Division	...	...	...	...	...	...
Permission of Court of Appeals or Judge thereof	74	27	9	6	...	116
Permission of Appellate Division or Justice thereof	46	9	...	5	...	60
Constitutional question	...	...	...	...	...	...
Stipulation for judgment absolute	...	...	...	...	...	...
Other	1	...	...	...	...	1
Total	121	36	9	11	...	177

All Cases

Basis of Jurisdiction	Type of Disposition					Total
	Affirmance	Reversal	Modification	Dismissal	Other	
Reversal, Modification, Dissent in Appellate Division	288	84	17	7	...	396
Permission of Court of Appeals or Judge thereof	90	49	12	6	...	157
Permission of Appellate Division or Justice thereof	85	20	4	7	...	116
Constitutional question	6	2	...	...	...	8
Stipulation for judgment absolute	...	...	...	...	...	...
Other	21	7	1	...	...	29
Total	490	162	34	20	...	706

Table 9

THE COURT OF APPEALS

Written Opinions by Type and by Author

January 1, 1981 through December 31, 1981

Author	Majority Opinions	Concurrences	Dissents	Total
	Type of Opinions			
Cooke	24	4	12	40
Jasen	25	5	9	39
Gabrielli	19	5	9	33
Jones	20	3	7	30
Wachtler	18	1	10	29
Fuchsberg	21	5	17	43
Meyer	28	6	20	54
Per Curiam	12	—	—	12
Memorandum	244	—	—	244
Total	411	29	84	524

Table 10

APPELLATE DIVISIONS OF THE SUPREME COURT

Matters Submitted and Decided and General Information on Proceedings by Judicial Department

Jan. 1, 1981 through Dec. 31, 1981

Department	Records on Appeal Filed	Motions Decided	Oral Argu-Ments	Dispositions of Judgments or Orders Appealed from[1]	Admissions To Bar		Attorney Disciplinary Proceedings					
					Men	Women	Charges Dismissed	Censures	Suspensions	Struck from Roll	Disbarments	Reinstatements
1st. Dept.	3,193	5,735	1,270	2,974	1,044	627	1	1	16	6	6	6
2nd Dept.	3,360	8,601	1,615	3,339	1,440	601	1	21	25	8	9	1
3rd Dept.	1,696	2,849	996	1,758	759	166	3	3	7	1	2	3
4th Dept	1,089	2,269	931	1,184	311	103	0	2	5	2	2	7
State Total	9,338	19,454	4,812	9,255	3,554	1,497	5	27	53	17	19	17

[1] Includes Articles 78 and original proceedings: also includes appeals dismissed or withdrawn before arguments or submission.

Table 11
APPELLATE DIVISIONS OF THE SUPREME COURT
Dispositions of Judgments or Orders by Nature and by Judicial Department

Jan. 1, 1981 through Dec. 31, 1981

	Nature of Disposition						
Department	**Dismissals**	**Affirmances**	**Modifications**	**New Trials**	**Reversals Not Including New Trials**	**Other**	**Total Disposition of Judgments or Orders Appealed from**
1st Dept.	155	1,903	227	20	351	318	2,974
2nd Dept.	191	2,094	343	0	711	0	3,339
3rd Dept.	37	1,315	118	18	234	36	1,758
4th Dept.	34	799	114	20	183	34	1,184
Total State	417	6,111	802	58	1,479	388	9,255

Table 12
APPELLATE DIVISIONS OF THE SUPREME COURT
Opinions by Type and by Judicial Department

Jan. 1, 1981 through Dec. 31, 1981

	Type of Opinion[1]		
Department	**Full Opinion**	**Per Curiams**	**Memo Opinion**
1st Dept.	137	23	773
2nd Dept.	108	15	2,193
3rd Dept.	94	2	966
4th Dept.	103	4	451
Total State	442	44	4,386

[1] Concurring and dissenting opinions are not included.

Table 13
APPELLATE TERMS OF THE SUPREME COURT
Activity of the Court by Judicial Department

Jan. 1, 1981 through Dec. 31, 1981

Activity	First Department	Second Department	Total
1. Total Appeals received[1]	573	1,727	2,300
a. County Courts	0	101	101
b. The Civil Court of the City of New York	479	307	786
c. The Criminal Court of the City of New York	94	223	317
d. The District Courts	0	584	584
e. Courts in cities outside New York City	0	162	162
f. Town Courts & Village Courts	0	350	350
2. Motions heard or submitted	1,597	3,666	5,263
3. Total appeals disposed of	533	1,223	1,756
a. Discontinued	13	8	21
b. Dismissed on calendar call under Rule 3 or 8 (civil)	26	363	389
c. Dismissed on calendar call under C.P.L. 460.70 (criminal)	4	63	67
d. Remitted	2	0	2
e. Decided after argument or submission	488	789	1,277
4. Total decisions rendered	488	789	1,277
a. Dismissed, discontinued, withdrawn or remanded	12	17	29
b. Affirmed	246	362	608
c. Modified	64	159	223
d. Reversed	166	251	417
5. Opinions filed	9	0	9
6. Per curiam opinions	392	782	1,174
7. Memoranda written, not filed	96	0	96

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[1] Notices of appeal dismissed on calendar call C.P.L. 460.70 (Criminal): 89 in First Department and 493 in the Second Department.

Table 14

THE SUPREME COURT WITHIN THE CITY OF NEW YORK — CRIMINAL TERMS

Activity of the Court by County

December 29, 1980 through December 27, 1981

Activity	New York	Bronx	Kings	Queens	Richmond	Total N.Y.C.
1. Days sat[1]	9,918	7,741	8,349	5,528	487	32,023
2. Indictments and superior court informations filed	7,675	4,585	6,139	3,902	495	22,796
3. Arraignments	6,136	4,194	5,837	3,974	455	20,596
4. Indictments dismissed by court[2]	1,121	876	1,024	677	72	3,770
5. Pleas of guilty to felony	6,017	2,964	4,016	2,256	317	15,570
6. Pleas of guilty to misdemeanor	247	72	100	256	37	712
7. Convictions	635	400	524	296	21	1,876
8. Acquittals	198	244	195	205	13	855
9. Disagreements	41	20	33	20	2	116
10. Trials (proof completed)	710	545	605	453	31	2,344
11. Defendants tried (proof completed)	808	617	712	505	36	2,678
12. Mistrials	61	50	55	40	1	207
13. Eligible youth sentenced as youthful offenders	574	380	519	527	54	2,054
14. Sentences imposed	5,770	2,836	3,894	2,174	343	15,017

NOTE: The entries in this table are based on the number of defendant-indictments involved, except for items 1 and 9 through 12. This table includes youthful offender proceedings to conform to the revised Criminal Procedure Law, effective September 1, 1971.

[1] Includes days sat by judges temporarily assigned to this Court.

[2] Includes, among others: indictments dismissed in cases initiated prior to the period covered by this table; those indictments dismissed against defendants sentenced on another indictment or disposed of by consolidation; those in which the defendants were civilly committed to the Commissioner of Mental Hygiene or to the Commissioner, Division of Substance Abuse Service; those indictments disposed of by trial order of dismissal; those indictments dismissed upon the filing of a superseding indictment; indictments adjourned in contemplation of dismissal; and those abated by the death of the defendant.

Table 15

THE SUPREME COURT WITHIN THE CITY OF NEW YORK
CRIMINAL TERMS
Dispositions, Expressed in Terms of Defendant-Indictments by Nature of Disposition

1980 and 1981

Activity	New York		Bronx		Kings		Queens		Richmond		Total N.Y.C.	
	1980	1981	1980	1981	1980	1981	1980	1981	1980	1981	1980	1981
Type of disposition												
Dismissals	1,097	1,121	637	876	761	1,024	594	677	100	72	3,189	3,770
Pleas of guilty — felony	4,754	6,017	2,588	2,964	3,202	4,016	1,681	2,256	264	317	12,489	15,570
Pleas of guilty — misdemeanors	252	247	60	72	158	100	158	256	55	37	683	712
Convictions	493	635	346	400	465	524	237	296	25	21	1,566	1,876
Acquittals	196	198	208	244	152	195	136	205	9	13	701	855
Total dispositions	6,792	8,218	3,839	4,556	4,738	5,859	2,086	3,690	453	460	18,628	22,783
Days sat	8,457	9,918	6,451	7,741	7,076	8,349	3,771	5,528	417	487	26,172	32,023
Defendants tried through proof completed	737	808	574	617	639	712	397	505	39	36	2,386	2,678
Comparative measures												
Dismissals as % of dispositions	16.1	13.5	16.5	19.2	16.0	17.4	21.1	18.3	22.0	15.6	17.1	16.5
Pleas as % of dispositions	73.7	76.2	68.9	66.6	70.0	70.2	65.5	68.0	70.4	76.9	70.7	71.4
Verdicts as % of dispositions	10.1	10.1	14.4	14.1	13.0	12.2	13.5	13.7	7.5	7.3	12.1	12.0
Felony pleas as % of all pleas	95.0	96.0	97.7	97.6	95.3	97.5	91.4	89.8	82.8	89.5	94.8	95.6
Dispositions per day sat	0.80	.82	0.59	.58	0.66	.70	0.74	.66	1.05	.94	0.71	.71

*Criminal terms begin on the first Monday of the calendar year and end on the Sunday before the first Monday of the succeeding calendar year.

Table 16

THE SUPREME COURT WITHIN THE CITY OF NEW YORK
Felony Defendants Pending Disposition (Expressed in Terms of Defendant-Indictments)

December 29, 1980 and December 27, 1981

County	Number of Cases Pending End of Term 13	
	1980	1981
New York County	3,065	3,249
Bronx County	1,919	1,895
Kings County	3,223	3,508
Queens County	1,748	1,996
Richmond County	96	130
Total New York City	10,051	10,778

Table 17

THE SUPREME COURT WITHIN THE CITY OF NEW YORK
Number of Detainees Awaiting Disposition or Sentencing (Expressed in Terms of Individual Detainees)

End of December, 1981

County	Total Number[1]	Percent of City
New York County	1,585	36%
Bronx County	905	21%
Kings County	1,268	29%
Queens County	590	13%
Richmond County	47	1%
Total New York City	4,395	100%

[1] Totals from NYC Department of Correction.

Table 18

THE SUPREME COURT AND COUNTY COURTS OUTSIDE THE CITY OF NEW YORK – CRIMINAL TERMS

Indictments Filed, Arraignments, Dispositions, Youthful Offenders and Sentences by County, District, and Judicial Dept.

(Expressed in Terms of Defendant-Indictments)

December 29, 1980 through December 27, 1981

Department District County	Total Defendant Indictments and Superior Court Informations Filed	Total Arraignments	Dispositions[a]				Trials through Proof Completed	Mistrials	Disagreements	Eligible Youths Adjudicated as Youthful Offenders	Sentences Imposed
			Indictments Dismissed by Court[b]	Pleas of Guilty	Acquittals	Convictions					
SECOND DEPARTMENT											
9. Dutchess	227	226	25	193	3	15	21	1	0	50	191
Orange	321	296	37	261	3	21	19	0	0	75	188
Putnam	81	87	20	60	0	1	2	0	1	8	53
Rockland	390	357	10	374	1	16	15	1	0	80	289
Westchester	1,617	1,524	78	1,142	28	138	140	10	9	222	977
10. Nassau	2,380	2,252	288	2,026	33	128	143	15	2	412	1,633
Suffolk	3,088	2,824	509	2,178	36	148	163	12	8	450	1,785
Total Second Dept.	8,104	7,566	967	6,234	104	467	503	39	20	1,297	5,116
THIRD DEPARTMENT											
3. Albany	450	441	51	356	28	80	86	0	0	12	392
Columbia	67	53	9	48	4	2	6	1	0	1	33
Greene	103	49	38	64	2	9	10	0	0	11	69
Rensselaer	241	200	32	184	2	6	8	1	0	46	121
Schoharie	27	14	3	15	3	1	3	1	0	3	15
Sullivan	153	150	7	111	0	3	3	1	0	21	96
Ulster	229	195	24	117	7	13	17	0	0	25	107
4. Clinton	176	166	29	107	3	9	13	1	0	8	97
Essex	161	200	59	81	3	2	5	0	0	14	64
Franklin	107	90	102	61	1	5	5	0	0	17	46
Fulton	74	75	18	74	4	5	10	1	0	11	65
Hamilton	21	18	0	19	0	0	0	0	0	4	16
Montgomery	111	95	12	88	0	4	5	0	0	17	71
St. Lawrence	294	286	48	226	1	12	14	1	2	57	182
Saratoga	117	102	27	85	1	2	5	0	0	9	82
Schenectady	207	186	33	188	2	3	6	0	1	42	145
Warren	33	33	7	47	1	3	4	0	0	7	36
Washington	72	67	6	43	0	0	1	1	0	7	29
6. Broome	498	489	74	434	4	34	36	0	0	97	384
Chemung	423	420	24	379	3	21	23	1	0	82	265
Chenango	76	72	18	49	1	0	2	0	1	5	42
Cortland	77	78	6	76	0	0	0	0	0	13	53
Delaware	23	21	1	21	1	2	3	1	0	3	20
Madison	112	80	5	104	0	2	2	0	0	9	85
Otsego	141	114	38	53	5	7	10	0	0	10	43
Schuyler	43	44	14	20	0	0	0	1	0	4	19
Tioga	71	63	0	64	2	5	7	0	0	13	55
Tompkins	180	183	75	82	2	10	15	0	0	7	90
Total Third Dept.	4,287	3,984	760	3,196	80	240	299	11	4	555	2,722
FOURTH DEPARTMENT											
5. Herkimer	59	53	4	26	0	0	1	1	0	1	20
Jefferson	250	267	34	181	0	3	4	0	1	29	152
Lewis	61	58	11	29	1	1	1	0	0	5	22
Oneida	517	464	55	516	13	29	41	1	4	101	386
Onondaga	1,192	966	83	973	30	42	65	1	1	183	721
Oswego	165	166	1	145	5	7	12	0	0	52	110
7. Cayuga	70	49	3	58	7	8	15	0	0	15	57
Livingston	221	216	15	178	4	4	9	0	0	47	140
Monroe	1,310	1,307	220	932	37	159	181	4	2	98	946
Ontario	262	251	2	234	1	17	17	1	0	56	183
Seneca	46	56	1	28	1	0	0	0	0	1	26
Steuben	141	132	19	118	2	7	10	0	1	32	84
Wayne	113	89	7	112	1	8	8	0	0	26	95
Yates	27	30	4	21	0	0	0	0	0	4	20
8. Allegany	82	76	9	53	2	5	7	0	0	14	52
Cattaraugus	133	153	5	121	1	5	6	1	0	34	83
Chautauqua	332	312	66	253	3	4	6	0	0	50	192
Erie	1,027	1,128	179	870	47	112	142	12	3	128	877
Genesee	70	65	4	67	3	6	6	0	0	11	63
Niagara	113	242	53	222	15	24	37	3	1	27	205
Orleans	136	143	36	128	7	27	30	1	0	17	124
Wyoming	73	119	10	85	0	0	0	0	0	30	45
Total Fourth Dept.	6,400	6,342	821	5,350	180	468	598	25	13	962	4,603
Total Outside N.Y.C.	18,791	17,892	2,548	14,780	364	1,175	1,400	75	37	2,814	12,441

[a] Includes indictments disposed of in cases initiated prior to the period covered by this table.

[b] Includes, among others, those indictments dismissed against defendants sentenced on another indictment or disposed of by consolidation; those in which defendants were civilly committed to the Commissioner of Mental Hygiene or to the Division of Substance Abuse Services; and those abated by the death of the defendant.

Table 19

THE SUPREME COURT AND COUNTY COURTS OUTSIDE THE CITY OF NEW YORK — CRIMINAL TERMS

Dispositions by Type

(Expressed in Terms of Defendant-Indictments)

1980 and 1981

Nature of Disposition	Number		Percent	
	1980	1981	1980	1981
1. By dismissal of indictment by court	2,234	2,548	13.7	13.5
2. By plea of guilty	12,850	14,780	78.6	78.3
3. By acquittal after trial	330	364	2.0	1.9
4. By conviction after trial	924	1,175	5.7	6.3
Total defendant-indictments disposed of	16,338	18,867	100.0	100.0

Table 20

THE SUPREME AND COUNTY COURTS OUTSIDE THE CITY OF NEW YORK

Number of Detainees Awaiting Disposition and Sentencing

(Expressed in Terms of Individual Detainees)

End of Dec. 1980 and 1981

Jurisdiction	Number of Detainees		Number Detained Over One Year	
	1980	1981	1980	1981
Second Department				
Ninth District	275	247	2	4
Tenth District	355	410	5	10
Total Second Department	630	657	7	14
Third Department				
Third District	97	115	0	0
Fourth District	39	18	0	1
Sixth District	62	95	0	1
Total Third Department	198	228	0	2
Fourth Department				
Fifth District	74	189	0	54
Seventh District	84	140	1	3
Eighth District	239	211	4	2
Total Fourth Department	397	540	5	59
Grand Total	1,225	1,425	12	75

Table 21

THE CRIMINAL COURT OF THE CITY OF NEW YORK – CRIMINAL PROCEEDINGS

Arrest Cases

1981

Activity	New York	Bronx	Kings	Queens	Richmond	Total NYC
Judge Days	4,186	2,845	3,333	2,709	353	13,426
Calendared Cases	229,786	156,049	153,530	115,285	19,035	673,685
Filings	73,778	35,403	47,570	27,808	4,492	189,051
Warrants Filed	26,697	12,931	13,678	7,827	1,552	62,685
Warrants Executed	21,970	10,209	11,560	6,222	1,320	51,281
Preliminary Hearings	277	222	621	956	324	2,400
Other Hearings & Motions	252	280	294	873	38	1,737
Trials	409	158	249	323	50	1,189
Dismissals[1]	18,591	13,201	17,672	7,957	1,696	59,117
Pleas of Guilty	39,507	13,122	20,363	13,505	1,956	88,453
Acquittals	189	137	129	211	26	692
Convictions	250	60	119	129	26	584
Referrals to Grand Jury	7,486	5,267	6,053	4,058	535	23,399
Other Dispositions[2]	3,450	1,689	2,824	1,761	140	9,864
Sentences Imposed	42,144	13,571	21,047	14,365	2,000	93,127
Pending Dispositions	5,065	4,191	2,856	2,727	430	15,269
Pending Sentence	866	260	655	242	49	2,072

[1] Includes, among others, abatements by death, commitments to Mental Hygiene and ACD's.

[2] Includes transfers to family court, other jurisdictions, criminal court summons parts and arrests parts in other counties.

Table 22

THE CRIMINAL COURT OF THE CITY OF NEW YORK – CRIMINAL PROCEEDINGS

Cases Disposed of by Nature of Disposition

Arrest Cases

1980 and 1981

Activity	New York		Bronx		Kings		Queens		Richmond		Total NYC	
	1980	1981	1980	1981	1980	1981	1980	1981	1980	1981	1980	1981
Dismissals	18,491	18,591	13,804	13,201	17,531	17,672	12,528	7,957	1,947	1,696	64,301	59,117
Pleas of guilty	36,486	39,506	12,242	13,122	18,815	20,363	13,035	13,505	1,888	1,956	82,466	88,453
Acquittals	166	189	134	137	110	129	182	211	42	26	634	692
Convictions	200	250	72	60	68	119	83	129	35	26	458	584
Referrals to grand jury[1]	6,103	7,486	4,703	5,267	4,927	6,053	3,827	4,058	481	535	20,041	23,399
Other dispositions	3,328	3,450	2,026	1,689	3,085	2,824	1,888	1,761	106	140	10,433	9,864
Total dispositions	64,774	69,473	32,981	33,476	44,536	47,160	31,543	27,621	4,499	4,379	178,333	182,109
Filings	67,365	73,778	34,033	35,403	44,462	47,570	32,644	27,808	4,464	4,492	182,968	189,051
Dispositions as % of filings	96	94	97	95	100	99	97	99	101	97	97	96
Dismissals as % of dispositions	29	27	42	39	39	37	40	29	43	39	36	32
Pleas as % of dispositions	56	57	37	39	42	43	41	49	42	44	46	49
Verdicts as % of dispositions	1	*	1	*	*	*	1	*	2	1	1	*
Referrals to grand jury as % of dispositions[1]	9	10	14	16	11	13	12	15	11	12	11	13
Other dispositions as % of dispositions	5	5	6	5	7	6	6	6	2	3	6	5

[1] Includes waivers of indictment.

*Indicates less than 0.5%.

Table 23
THE CRIMINAL COURT OF THE CITY OF NEW YORK
Number of Detainees Awaiting Action
1980 and 1981

Detainees	New York 1980	New York 1981	Bronx 1980	Bronx 1981	Kings 1980	Kings 1981	Queens 1980	Queens 1981	Richmond 1980	Richmond 1981	Total NYC 1980	Total NYC 1981
Awaiting Action in the Criminal Court												
Awaiting Examination	154	206	134	230	246	272	184	251	13	18	731	977
Awaiting Disposition	251	181	133	124	139	54	94	100	1	4	618	463
Awaiting Sentencing	16	24	1	29	7	10	0	5	2	2	26	70
Total Criminal Court	421	411	268	383	392	336	278	356	16	24	1,375	1,510

Table 24
THE CRIMINAL COURT OF THE CITY OF NEW YORK
Filings
Summons Cases[1]
Calendar Years 1980 and 1981 Compared

Type of Summons	1980	1981
Traffic	103,296	89,195
Non traffic	239,601	465,421
Total summonses[2]	342,897	554,616

[1] Includes all non-arrest cases and arrest case of peddling where a desk appearance was issued.
[2] Includes universal and non-universal summonses.

Table 25
THE CRIMINAL COURT OF THE CITY OF NEW YORK
Fines Collected*
Calendar Years 1980 and 1981 Compared

Type of Cases	1980	1981
Arrest	$1,050,628.00	$2,319,313.00
Summons	1,294,985.00	1,371,270.00
Total fines collected	$2,345,613.00	$3,690,583.00

*City and State fines, excluding fees.

Table 26

THE DISTRICT COURTS AND THE COURTS IN CITIES OUTSIDE THE CITY OF NEW YORK CRIMINAL MATTERS

Arraignments and Dispositions by Nature and by District

December 29, 1980 through December 27, 1981

District	Arraignments	Dispositions							Mistrials
		Dismissals	Pleas	Trials		Held for Grand Jury	Other	Total	
				Convictions	Acquittals				
District 3	7,580	2,492	4,368	51	15	213	114	7,253	3
District 4	8,587	1,577	3,822	27	28	173	752	6,379	. . .
District 5	10,612	3,456	5,434	94	54	1,459	67	10,564	1
District 6	6,615	1,935	4,085	148	33	248	16	6,465	1
District 7	17,221	5,815	7,210	79	80	1,133	1,487	15,804	7
District 8	25,137	10,968	10,201	422	228	1,370	377	23,566	4
District 9	3,621	1,585	2,102	17	14	224	89	4,031	2
District 10	137,046	37,530	61,773	262	238	697	275	100,775	5
Total Outside of NYC	216,419	65,358	98,995	1,100	690	5,517	3,177	174,837	23

Table 27

THE DISTRICT COURTS AND THE COURTS IN CITIES OUTSIDE THE CITY OF NEW YORK MOTOR VEHICLE MATTERS

Dispositions by Nature and by District

December 29, 1980 through December 27, 1981

District	Dispositions						Mistrials
	Dismissals	Pleas	Convictions	Acquittals	Other	Total	
District 3	4,419	25,823	663	583	5,225	36,713	. . .
District 4	1,614	7,180	51	15	1,367	10,227	. . .
District 5	10,137	18,677	115	28	2,069	31,026	35
District 6	2,681	9,879	324	77	21	12,982	. . .
District 7	1,917	4,774	90	23	56	6,860	. . .
District 8	4,526	15,264	913	355	95	21,153	. . .
District 9	2,950	10,518	480	211	110	13,909	1
District 10	73,964	123,127	1,090	331	. . .	198,512	. . .
Total Outside of NYC	102,208	214,882	3,726	1,623	8,943	331,382	36

Table 28
TOWN COURTS AND VILLAGE COURTS
Number of Criminal Cases by Type

1980 and 1981

Type of Cases	Number of Cases	
	1980	1981
Town and Village Speeding Ordinances Established Pursuant to Sections 1643, 1644, 1662a, 1663 and 1670 of the Vehicle and Traffic Law	46,953	44,126
Town and Village Ordinances and Vehicle and Traffic Law Title VII (Except Sections 1180, 1181, 1182, 1190, 1192)	1,449,666	1,573,652
Vehicle and Traffic Law Titles I — VI (Except Article 2A), Title VII Sections 1180, 1181, 1182, 1190 and 1192, and Thruway Rules and Regulations	842,570	883,258
Tax Law Section 512	7,663	8,276
Penal Law and Indictable Offenses	115,783	117,966
Environmental Conservation Criminal	11,532	13,269
Other	44,327	16,386
Total	2,518,494	2,656,933

Table 29

THE SUPREME COURT — CIVIL TERMS

Actions Received by Type and by County, District and Judicial Department

December 29, 1980 through December 27, 1981

County	Dept.	Dist.	Tort			Contested Matri-monial	Tax Certiorari	Condem-nation	Other	Total
			Motor Vehicle	Other Tort	Medical Mal-practice					
Albany	3	3	270	215	39	137	4	0	321	986
Allegany	4	8	28	10	4	35	0	0	19	96
Bronx	1	1	1,449	1,146	166	234	118	4	238	3,355
Broome	3	6	96	68	22	46	1	4	222	459
Cattaraugus	4	8	25	25	4	32	0	0	32	118
Cayuga	4	7	14	15	3	39	0	0	40	111
Chautauqua	4	8	48	28	3	161	0	0	65	305
Chemung	3	6	82	85	5	72	0	0	40	284
Chenango	3	6	31	10	1	35	0	0	27	104
Clinton	3	4	33	12	5	30	0	0	44	124
Columbia	3	3	28	28	3	32	1	2	35	129
Cortland	3	6	9	3	3	10	1	0	21	47
Delaware	3	6	10	18	1	26	4	0	33	92
Dutchess	2	9	223	166	15	124	70	0	143	741
Erie	4	8	728	697	70	1,018	9	5	573	3,100
Essex	3	4	14	10	4	14	5	0	29	76
Franklin	3	4	20	9	4	19	0	0	23	75
Fulton	3	4	55	63	6	37	3	0	55	219
Genesee	4	8	22	9	1	42	1	0	26	101
Greene	3	3	28	28	1	22	0	0	29	108
Hamilton	3	4	0	0	0	0	0	0	0	0
Herkimer	4	5	33	20	1	67	7	0	47	175
Jefferson	4	5	48	28	7	100	7	0	58	248
Kings	2	2	2,913	2,943	333	1,042	107	7	838	8,183
Lewis	4	5	7	2	0	12	1	0	10	32
Livingston	4	7	11	11	1	40	0	0	22	85
Madison	3	6	26	25	2	32	0	0	38	123
Monroe	4	7	216	211	21	811	7	13	416	1,695
Montgomery	3	4	38	29	4	33	3	0	29	136
Nassau	2	10	2,050	1,387	242	695	2,360	24	2,917	9,675
New York	1	1	1,473	2,480	411	407	223	5	3,258	8,257
Niagara	4	8	118	112	13	166	14	4	96	523
Oneida	4	5	154	131	17	210	50	5	220	787
Onondaga	4	5	343	242	39	353	188	18	462	1,645
Ontario	4	7	27	22	2	75	0	0	52	178
Orange	2	9	395	247	20	130	189	2	201	1,184
Orleans	4	8	10	14	1	12	0	0	1	38
Oswego	4	5	68	26	6	137	0	0	96	333
Otsego	3	6	22	9	1	19	0	0	41	92
Putnam	2	9	71	45	7	40	2	0	58	223
Queens	2	11	2,222	1,663	260	720	79	6	825	5,775
Rensselaer	3	3	83	79	10	38	13	1	72	296
Richmond	2	2	309	282	37	206	6	6	82	928
Rockland	2	9	340	260	18	147	636	0	194	1,595
Saratoga	3	4	76	71	14	65	21	1	69	317
Schenectady	3	4	195	157	33	94	97	0	161	737
Schoharie	3	3	12	12	0	24	1	0	16	65
Schuyler	3	6	7	7	0	9	0	0	18	41
Seneca	4	7	8	8	1	13	0	0	13	43
St. Lawrence	3	4	34	10	5	57	2	0	55	163
Steuben	4	7	32	27	2	96	0	0	60	217
Suffolk	2	10	2,260	1,356	136	1,339	460	93	1,003	6,647
Sullivan	3	3	96	71	11	23	1	3	88	293
Tioga	3	6	11	10	0	24	0	0	44	89
Tompkins	3	6	36	28	3	32	4	0	60	163
Ulster	3	3	169	120	5	75	16	0	155	540
Warren	3	4	17	22	2	24	1	0	40	106
Washington	3	4	21	10	1	15	0	0	18	65
Wayne	4	7	16	9	0	68	0	0	25	118
Westchester	2	9	770	652	103	461	1,376	2	741	4,105
Wyoming	4	8	12	8	0	18	0	0	13	51
Yates	4	7	2	1	0	11	0	0	13	27
Total District		1	2,922	3,626	577	641	341	9	3,496	11,612
Total District		2	3,222	3,225	370	1,248	113	13	920	9,111
Total District		3	686	553	69	351	36	6	716	2,417
Total District		4	503	393	78	388	132	1	523	2,018
Total District		5	653	449	70	879	253	23	893	3,220
Total District		6	330	263	38	305	10	4	544	1,494
Total District		7	326	304	30	1,153	7	13	641	2,474
Total District		8	991	903	96	1,484	24	9	825	4,332
Total District		9	1,799	1,370	163	902	2,273	4	1,337	7,848
Total District		10	4,310	2,743	378	2,034	2,820	117	3,920	16,322
Total District		11	2,222	1,663	260	720	79	6	825	5,775
Total New York City			8,366	8,514	1,207	2,609	533	28	5,241	26,498
Total Outside of NYC			9,598	6,978	922	7,496	5,555	177	9,399	40,125
Total New York State			17,964	15,492	2,129	10,105	6,088	205	14,640	66,623

Table 30

THE SUPREME COURT – CIVIL TERMS

Actions Disposed of by Type and by County, District and Judicial Department

December 29, 1980 through December 27, 1981

County District	Dept.	Dist.	Tort: Motor Vehicle	Tort: Other Tort	Tort: Medical mal-practice	Contested Matri-monial	Tax Certiorari	Condem-nation	Other	Total
Albany	3	3	245	219	30	112	3	2	353	964
Allegany	4	8	27	5	1	36	0	0	18	87
Bronx	1	1	1,612	1,416	.151	226	98	12	260	3,775
Broome	3	6	81	68	9	73	2	0	217	450
Cattaraugus	4	8	21	15	3	31	0	0	23	93
Cayuga	4	7	18	21	4	47	0	0	46	136
Chautauqua	4	8	52	39	6	171	0	0	68	336
Chemung	3	6	66	43	6	52	0	0	35	202
Chenango	3	6	27	7	2	26	0	0	27	89
Clinton	3	4	29	15	4	45	1	0	48	142
Columbia	3	3	21	14	2	25	1	1	32	96
Cortland	3	6	14	7	1	12	1	0	37	72
Delaware	3	6	15	18	1	22	4	0	34	94
Dutchess	2	9	223	157	14	98	40	0	119	651
Erie	4	8	815	837	67	869	5	3	513	3,109
Essex	3	4	19	7	2	13	5	0	31	77
Franklin	3	4	44	17	4	18	0	0	26	109
Fulton	3	4	48	41	4	29	3	0	39	164
Genesee	4	8	20	9	4	31	0	0	31	95
Greene	3	3	32	19	2	25	0	0	30	108
Hamilton	3	4	0	0	0	0	0	0	0	0
Herkimer	4	5	37	28	0	67	4	0	47	183
Jefferson	4	5	46	25	4	90	2	0	50	217
Kings	2	2	2,810	3,401	268	967	63	7	256	7,772
Lewis	4	5	2	0	0	3	0	0	8	13
Livingston	4	7	29	6	0	43	0	0	25	103
Madison	3	6	30	18	3	26	0	0	32	109
Monroe	4	7	241	198	37	681	6	7	467	1,637
Montgomery	3	4	42	27	5	31	4	0	30	139
Nassau	2	10	2,279	1,546	176	914	993	20	2,867	8,795
New York	1	1	1,735	2,749	294	360	122	1	2,976	8,237
Niagara	4	8	135	93	6	176	0	5	115	530
Oneida	4	5	151	1115	16	206	72	0	258	818
Onondaga	4	5	352	276	37	337	197	10	488	1,697
Ontario	4	7	31	29	3	73	0	0	61	197
Orange	2	9	313	190	9	150	240	1	177	1,080
Orleans	4	8	9	13	2	12	0	0	0	36
Oswego	4	5	67	16	4	121	1	0	106	315
Otsego	3	6	23	13	1	24	0	0	61	122
Putnam	2	9	65	52	6	46	2	0	56	227
Queens	2	11	2,387	1,979	229	710	55	1	685	6,046
Rensselaer	3	3	105	75	9	46	1	0	71	307
Richmond	2	2	264	253	30	192	1	0	66	806
Rockland	2	9	389	251	19	150	551	0	232	1,592
St. Lawrence	3	4	26	8	3	36	3	0	40	116
Saratoga	3	4	92	69	6	63	14	0	81	325
Schenectady	3	4	226	170	45	65	157	0	166	829
Schoharie	3	3	14	18	2	26	1	0	13	74
Schuyler	3	6	3	6	0	7	0	0	15	31
Seneca	4	7	8	4	1	25	0	0	9	47
Steuben	4	7	32	24	1	101	1	0	63	222
Suffolk	2	10	3,124	1,670	62	1,147	540	100	994	7,637
Sullivan	3	3	77	51	7	17	5	2	81	240
Tioga	3	6	12	7	3	17	1	0	35	75
Tompkins	3	6	29	27	1	22	1	0	59	139
Ulster	3	3	133	74	5	92	6	0	177	487
Warren	3	4	26	10	6	36	4	1	64	147
Washington	3	4	9	14	0	19	0	0	17	59
Wayne	4	7	18	24	0	56	0	0	25	123
Westchester	2	9	755	570	73	395	3,133	1	739	5,666
Wyoming	4	8	17	2	0	13	0	0	15	47
Yates	4	7	5	0	0	9	0	0	14	28
Total District		1	3,347	4,165	445	586	220	13	3,236	12,012
Total District		2	3,074	3,654	298	1,159	64	7	322	8,578
Total District		3	627	470	57	343	17	5	757	2,276
Total District		4	561	378	79	355	191	1	542	2,107
Total District		5	655	460	61	824	276	10	957	3,243
Total District		6	300	214	27	281	9	0	552	1,383
Total District		7	382	306	46	1,035	7	7	710	2,493
Total District		8	1,096	1,013	89	1,339	5	8	783	4,333
Total District		9	1,745	1,220	121	839	3,966	2	1,323	9,216
Total District		10	5,403	3,216	238	2,061	1,533	120	3,861	16,432
Total District		11	2,387	1,979	229	710	55	1	685	6,046
Total New York City			8,808	9,798	972	2,455	339	21	4,243	26,636
Total Outside NYC			10,769	7,277	718	7,077	6,004	153	9,485	41,483
Total New York State			19,577	17,075	1,690	9,532	6,343	174	13,728	68,119

NOTE: During the above reporting period there were 28,211 uncontested matrimonials disposed of in New York City, while 29,801 were disposed of Upstate, for a total of 58,012 uncontested matrimonials disposed of Statewide.

Table 31
THE SUPREME COURT – CIVIL TERMS
Actions Disposed of by Stage and Nature and by County, District and Judicial Department
December 29, 1980 through December 27, 1981

County	Dept.	Dist.	Before Trial			During Trial		After Trial		Total Disposition
			Transferred	Marked/ Stricken	Disc. Withdrawn Settlements	Jury	Non-jury	Jury	Non-jury	
Albany	3	3	172	89	486	92	27	43	55	964
Allegany	4	8	2	20	56	7	0	1	1	87
Bronx	1	1	504	415	2,014	322	26	140	354	3,775
Broome	3	6	127	34	184	13	12	25	55	450
Cattaraugus	4	8	4	23	47	8	0	6	5	93
Cayuga	4	7	16	7	39	23	20	1	30	136
Chautauqua	4	8	21	58	232	8	0	12	5	336
Chemung	3	6	4	26	108	13	11	11	29	202
Chenango	3	6	3	9	49	5	1	4	18	89
Clinton	3	4	1	22	64	10	3	6	36	142
Columbia	3	3	0	2	55	4	1	4	30	96
Cortland	3	6	0	21	31	1	2	3	14	72
Delaware	3	6	1	13	48	7	0	3	22	94
Dutchess	2	9	66	43	355	45	17	25	100	651
Erie	4	8	386	133	1,980	167	102	144	197	3,109
Essex	3	4	0	1	64	4	1	1	6	77
Franklin	3	4	7	10	82	4	0	4	2	109
Fulton	3	4	4	22	98	20	2	13	5	164
Genesee	4	8	10	12	59	1	0	2	11	95
Greene	3	3	14	10	57	2	0	3	22	108
Hamilton	3	4	0	0	0	0	0	0	0	0
Herkimer	4	5	2	20	97	6	0	7	51	183
Jefferson	4	5	2	36	81	8	0	4	86	217
Kings	2	2	1,895	1,050	3,232	472	120	216	787	7,772
Lewis	4	5	0	1	8	0	1	0	3	13
Livingston	4	7	12	17	56	4	1	5	8	103
Madison	3	6	1	8	42	9	17	7	25	109
Monroe	4	7	94	241	526	93	9	92	582	1,637
Montgomery	3	4	7	7	75	19	9	11	11	139
Nassau	2	10	1,444	545	3,633	321	737	198	1,917	8,795
New York	1	1	1,031	898	4,401	401	150	349	1,007	8,237
Niagara	4	8	41	16	278	17	2	18	158	530
Oneida	4	5	111	107	369	12	1	23	195	818
Onondaga	4	5	225	370	595	30	7	75	395	1,697
Ontario	4	7	29	10	82	9	3	7	57	197
Orange	2	9	87	59	636	79	11	35	173	1,080
Orleans	4	8	0	0	23	3	1	3	6	36
Oswego	4	5	6	37	125	13	18	15	101	315
Otsego	3	6	1	14	85	9	1	7	5	122
Putnam	2	9	34	15	111	12	3	12	40	227
Queens	2	11	1,062	484	2,879	471	105	211	834	6,046
Rensselaer	3	3	58	16	165	30	5	14	19	307
Richmond	2	2	55	51	415	58	6	17	204	806
Rockland	2	9	137	54	1,019	125	26	52	179	1,592
St. Lawrence	3	4	0	4	46	34	6	19	7	116
Saratoga	3	4	6	28	200	25	7	35	24	325
Schenectady	3	4	67	34	583	78	5	25	37	829
Schoharie	3	3	0	3	35	3	1	4	28	74
Schuyler	3	6	1	6	10	1	6	3	4	31
Seneca	4	7	7	8	28	1	0	1	2	47
Steuben	4	7	22	21	143	8	0	13	15	222
Suffolk	2	10	1,835	430	3,678	315	94	109	1,176	7,637
Sullivan	3	3	4	12	162	18	6	15	23	240
Tioga	3	6	0	17	36	3	2	4	13	75
Tompkins	3	6	7	32	60	13	2	5	20	139
Ulster	3	3	68	28	215	39	4	30	103	487
Warren	3	4	2	10	94	6	1	7	27	147
Washington	3	4	0	4	36	5	6	1	7	59
Wayne	4	7	21	39	16	5	3	4	35	123
Westchester	2	9	334	349	3,992	174	140	104	573	5,666
Wyoming	4	8	1	3	25	2	0	4	12	47
Yates	4	7	6	2	15	2	0	1	2	28
Total District		1	1,535	1,313	6,415	723	176	489	1,361	12,012
Total District		2	1,950	1,101	3,647	530	126	233	991	8,578
Total District		3	316	160	1,175	188	44	113	280	2,276
Total District		4	94	142	1,342	205	40	122	162	2,107
Total District		5	346	571	1,275	69	27	124	831	3,243
Total District		6	145	180	653	74	54	72	205	1,383
Total District		7	207	345	905	145	36	124	731	2,493
Total District		8	465	265	2,700	213	105	190	395	4,333
Total District		9	658	520	6,113	435	197	228	1,065	9,216
Total District		10	3,279	975	7,311	636	831	307	3,093	16,432
Total District		11	1,062	484	2,879	471	105	211	834	6,046
Total New York City			4,547	2,898	12,941	1,724	407	933	3,186	26,636
Total Outside NYC			5,510	3,158	21,474	1,965	1,334	1,280	6,762	41,483
Total New York State			10,057	6,056	34,415	3,689	1,741	2,213	9,948	68,119

NOTE: In 1981, the Supreme Court disposed of 58,012 uncontested matrimonial cases; 28,211 cases in New York City and 29,801 cases Upstate.

Table 32

(Partial)

THE SUPREME COURT – CIVIL TERMS

Actions Received, Disposed and Change in Pending and Projected Average Age

by County, District, and Judicial Department

December 29, 1980 through December 27, 1981

County	Dept.	Dist.	Received			Disposed			End Pending			Change in Pending						Projected Average Age
												Actions			Percent			
			Non-matrimonial	Contested Matrimonial	Total	Non-matrimonial	Contested Matrimonial	Total	Non-Matrimonial	Contested Matrimonial	Total	Non-matrimonial	Contested Mats.	Total	Non-matrimonial	Contested Matrimonial	Total	
Albany	3	3	849	137	986	852	112	964	775	105	880	7	27	34	00%	34%	04%	10
Allegany	4	8	61	35	96	51	36	87	17	1	18	8	0	8	88%	00%	80%	2
Bronx	1	1	3.121	234	3.355	3.549	226	3,775	1,114	66	1,180	-410	9	-401	-26%	15%	-25%	4
Broome	3	6	413	46	459	377	73	450	271	25	296	40	-27	13	17%	-51%	04%	7
Cattaraugus	4	8	86	32	118	62	31	93	53	6	59	24	-2	22	82%	-25%	59%	6
Cayuga	4	7	72	39	111	89	47	136	27	2	29	3	-2	1	12%	-50%	03%	2
Chautauqua	4	8	144	161	305	165	171	336	108	38	146	-17	-8	-25	-13%	-17%	-14%	5
Chemung	3	6	212	72	284	150	52	202	201	40	241	63	14	77	45%	53%	46%	12
Chenango	3	6	69	35	104	63	26	89	20	14	34	6	13	19	42%	00%	26%	3
Clinton	3	4	94	30	124	97	45	142	93	16	109	5	-14	-9	05%	-46%	-07%	9
Columbia	3	3	97	32	129	71	25	96	75	16	91	24	6	30	47%	60%	49%	9
Cortland	3	6	37	10	47	60	12	72	9	2	11	-19	-1	-20	-67%	-33%	-64%	3
Delaware	3	6	66	26	92	72	22	94	27	8	35	-4	2	-2	-12%	33%	-05%	4
Dutchess	2	9	617	124	741	553	98	651	423	78	501	60	27	87	16%	52%	21%	8
Erie	4	8	2.082	1.018	3.100	2.240	869	3,109	2,034	394	2,428	-157	149	-8	-07%	60%	00%	9
Essex	3	4	62	14	76	64	13	77	46	6	52	-2	1	-1	-04%	20%	-01%	8
Franklin	3	4	56	19	75	91	18	109	43	10	53	-38	1	-37	-46%	11%	-41%	8
Fulton	3	4	182	37	219	135	29	164	175	20	195	47	3	50	36%	17%	34%	12
Genesee	4	8	59	42	101	64	31	95	26	5	31	-1	-9	-10	-03%	-64%	-24%	4
Greene	3	3	86	22	108	83	25	108	71	3	74	7	-4	3	10%	-57%	04%	8
Hamilton	3	4	0	0	0	0	0	0	0	0	0	0	0	0	00%	00%	00%	0
Herkimer	4	5	108	67	175	116	67	183	77	36	113	3	11	14	04%	44%	14%	7
Jefferson	4	5	148	100	248	127	90	217	121	48	169	25	-3	22	26%	-05%	14%	8
Kings	2	2	7.141	1.042	8.183	6.805	967	7,772	4,704	252	4,956	338	99	437	07%	64%	09%	7
Lewis	4	5	20	12	32	10	3	13	9	2	11	6	0	6	00%	00%	20%	7
Livingston	4	7	45	40	85	60	43	103	18	12	30	-8	5	-3	-30%	71%	-09%	4
Madison	3	6	91	32	123	83	26	109	34	9	43	5	7	12	17%	50%	38%	4
Monroe	4	7	884	811	1.695	956	681	1.637	197	289	486	-74	134	60	-27%	86%	14%	3
Montgomery	3	4	103	33	136	108	31	139	97	16	113	-6	6	0	-05%	60%	00%	10
Nassau	2	10	8.980	695	9.675	7.881	914	8,795	10,323	370	10,693	1,187	-41	1,146	12%	-09%	12%	14
New York	1	1	7.850	407	8.257	7.877	360	8,237	6,581	217	6,798	-29	32	3	00%	17%	00%	10
Niagara	4	8	357	166	523	354	176	530	413	66	479	15	-9	6	03%	-12%	01%	10
Oneida	4	5	577	210	787	612	206	818	340	97	437	26	9	35	08%	10%	08%	6
Onondaga	4	5	1.292	353	1.645	1.360	337	1,697	657	217	874	-91	37	-54	-12%	20%	-05%	6
Ontario	4	7	103	75	178	124	73	197	18	17	35	-23	6	-17	-56%	54%	-32%	2
Orang.	2	9	1.054	130	1.184	930	150	1.080	840	39	879	89	-18	71	11%	-31%	08%	9
Orleans	4	8	26	12	38	24	12	36	17	3	20	2	1	3	13%	50%	17%	6
Oswego	4	5	196	137	333	194	121	315	210	90	300	2	23	25	00%	34%	09%	11
Otsego	3	6	73	19	92	98	24	122	18	3	21	-16	-5	-21	- 47%	-62%	-50%	3
Putnam	2	9	183	40	223	181	46	227	166	37	203	13	1	14	08%	02%	07%	10
Queens	2	11	5.055	720	5.775	5.336	710	6.046	2,996	79	3,075	-263	9	-254	-08%	12%	-07%	6
Rensselaer	3	3	258	38	296	261	46	307	277	16	293	18	-9	9	06%	-36%	03%	11

Table 32

(Concluded)

THE SUPREME COURT — CIVIL TERMS

Actions Received, Disposed and Change in Pending and Projected Average Age

by County, District, and Judicial Department

December 29, 1980 through December 27, 1981

County	Dept.	Dist.	Received			Disposed			End Pending			Change in Pending						Projected Average Age
												Actions			Percent			
			Non-matrimonial	Contested Matrimonial	Total	Non-matrimonial	Contested Matrimonial	Total	Non-Matrimonial	Contested Matrimonial	Total	Non-matrimonial	Contested Mats.	Total	Non-matrimonial	Contested Matrimonial	Total	
Richmond	2	2	722	206	928	614	192	806	711	38	749	97	14	111	15%	58%	17%	10
Rockland	2	9	1.448	147	1.595	1.442	150	1.592	822	56	878	5	1	6	00%	01%	00%	6
St. Lawrence	3	4	106	57	163	80	36	116	93	41	134	27	15	42	40%	57%	45%	11
Saratoga	3	4	252	65	317	262	63	325	281	40	321	-21	-1	-22	-06%	-02%	-06%	12
Schenectady	3	4	643	94	737	764	65	829	603	92	695	-114	29	-85	-15%	46%	-10%	10
Schoharie	3	3	41	24	65	48	26	74	13	5	18	-8	-2	-10	-38%	-28%	-35%	4
Schuyler	3	6	32	9	41	24	7	31	13	2	15	9	2	11	25%	00%	75%	4
Seneca	4	7	30	13	43	22	25	47	20	7	27	9	-3	6	81%	-30%	28%	6
Steuben	4	7	121	96	217	121	101	222	47	27	74	-5	-7	-12	-09%	-20%	-13%	4
Suffolk	2	10	5.308	1.339	6.647	6.490	1.147	7.637	3,690	598	4,288	-1,003	183	-820	-21%	44%	16%	7
Sullivan	3	3	270	23	293	223	17	240	253	13	266	49	7	56	24%	16%	26%	11
Tioga	3	6	65	24	09	58	17	75	25	11	36	11	4	15	78%	57%	71%	4
Tompkins	3	6	131	32	163	117	22	139	121	22	143	16	8	24	15%	57%	20%	11
Ulster	3	3	465	75	540	395	92	487	424	37	461	69	-14	55	19%	-27%	13%	10
Warren	3	4	82	24	106	111	36	147	52	9	61	-31	-8	-39	-37%	-47%	-39%	6
Washington	3	4	50	15	65	40	19	59	23	3	26	9	0	9	64%	00%	52%	4
Wayne	4	7	50	68	118	67	56	123	32	21	53	-15	-7	-22	-31%	-25%	-29%	6
Westchester	2	9	3.644	461	4.105	5.271	395	5.666	2.548	230	2.778	-1.618	61	-1.557	-38%	36%	-35%	7
Wyoming	4	8	33	18	51	34	13	47	16	5	21	-3	3	0	-15%	50%	00%	5
Yates	4	7	16	11	27	19	9	28	2	3	5	-4	2	-2	-66%	00%	-28%	2
Total District		1	10.971	641	11.612	11.426	586	12.012	7,695	283	7,978	-439	41	-398	-05%	16%	-04%	8
Total District		2	7.863	1.248	9.111	7.419	1.159	8.578	5,415	290	5,705	435	113	548	08%	63%	10%	7
Total District		3	2.066	351	2.417	1.933	343	2.276	1,888	195	2,083	166	11	177	09%	05%	09%	10
Total District		4	1.630	388	2.018	1.752	355	2.107	1.506	253	1,759	-124	32	-92	-07%	14%	-04%	10
Total District		5	2.341	879	3.220	2.419	824	3,243	1,414	490	1,904	-29	77	48	-02%	18%	02%	7
Total District		6	1.189	305	1.494	1.102	281	1.383	739	136	875	111	17	128	17%	14%	17%	7
Total District		7	1.321	1.153	2.474	1.458	1.035	2.493	361	378	739	-117	128	11	-24%	51%	01%	3
Total District		8	2.848	1.484	4.332	2.994	1.339	4.333	2.684	518	3.202	-129	125	-4	-04%	31%	00%	8
Total District		9	6.946	902	7.848	8.377	839	9.216	4,799	440	5.239	-1,451	72	-1.379	-23%	19%	-20%	7
Total District		10	14.288	2.034	16.322	14.371	2.061	16.432	14,013	968	14.981	184	142	326	01%	17%	02%	11
Total District		11	5.055	720	5.775	5.336	710	6.046	2.996	79	3.075	-263	9	-254	-08%	12%	-07%	6
Total Outside NYC			32.629	7.496	40.125	34.406	7.077	41.483	27.404	3.378	30.782	-1.389	604	-785	-04%	21%	-02%	9
Total NYC			23.889	2.609	26.498	24.181	2.455	26.636	16.106	652	16.758	-267	-163	-104	-01%	33%	00%	7
Total New York State			56.518	10.105	66.623	58.587	9.532	68.119	43.510	4.030	47.540	-1.656	767	-889	-03%	23%	-01%	8

NOTE: During the above reporting period there were 28.211 uncontested matrimonials disposed of in New York City. while 29.801 were disposed of Upstate. for a total of 58.012 uncontested matrimonials disposed of Statewide.

Table 33

THE COUNTY COURTS – CIVIL TERMS

Actions Received by Type and by County, District and Judicial Department

December 29, 1980 through December 27, 1981

County and Region	Dept.	Dist.	Tort			Tax Certiorari	Condemnation	All Other	Total
			Motor Vehicle	Other Tort	Medical Malpractice-				
Albany	3	3	3	2	0	0	0	14	19
Allegany	4	8	0	0	0	0	0	2	2
Broome	3	6	4	1	0	0	0	12	17
Cattaraugus	4	8	0	0	0	0	0	9	9
Cayuga	4	7	0	0	0	0	0	7	7
Chautauqua	4	8	0	1	0	0	0	26	27
Chemung	3	6	0	0	0	0	0	0	0
Chenango	3	6	1	0	0	0	0	2	3
Clinton	3	4	0	0	0	0	0	3	3
Columbia	3	3	2	1	0	0	0	4	7
Cortland	3	6	0	0	0	0	0	0	0
Delaware	3	6	0	1	0	0	0	13	14
Dutchess	2	9	27	17	0	0	0	120	164
Erie	4	8	0	3	0	0	0	12	15
Essex	3	4	0	0	0	0	0	4	4
Franklin	3	4	2	0	0	0	0	9	11
Fulton	3	4	4	2	0	0	0	16	22
Genesee	4	8	1	0	0	1	0	9	11
Greene	3	3	0	0	0	0	0	15	15
Hamilton	3	4	0	0	0	0	0	0	0
Herkimer	4	5	5	2	1	2	0	13	23
Jefferson	4	5	0	1	0	0	0	0	1
Lewis	4	5	1	0	0	0	0	0	1
Livingston	4	7	1	1	0	0	0	15	17
Madison	3	6	2	13	0	0	0	0	15
Monroe	4	7.	0	0	0	0	0	0	0
Montgomery	3	4	3	1	0	0	0	6	10
Nassau	2	10	805	459	1	0	0	24	1.289
Niagara	4	8	0	0	0	0	0	0	0
Oneida	4	5	0	0	0	0	0	0	0
Onondaga	4	5	0	0	0	0	0	0	0
Ontario	4	7	0	1	0	0	0	5	6
Orange	2	9	37	17	0	0	0	98	152
Orleans	4	8	0	3	0	0	0	0	3
Oswego	4	5	0	0	0	0	0	0	0
Otsego	3	6	1	0	0	0	0	6	7
Putnam	2	9	3	2	0	0	0	18	23
Rensselaer	3	3	3	1	0	0	0	17	21
Rockland	2	9	43	48	0	0	0	146	237
St. Lawrence	3	4	1	1	0	0	0	17	19
Saratoga	3	4	7	4	0	0	0	25	36
Schenectady	3	4	9	7	0	0	0	34	50
Schoharie	3	3	0	0	0	0	0	10	10
Schuyler	3	6	0	0	0	0	0	0	0
Seneca	4	7	1	0	0	0	0	1	2
Steuben	4	7	1	3	0	0	0	24	28
Suffolk	2	10	1.250	595	0	0	0	64	1.909
Sullivan	3	3	1	0	0	0	0	2	3
Tioga	3	6	0	0	0	0	0	0	0
Tompkins	3	6	5	1	0	0	0	3	9
Ulster	3	3	6	4	0	0	0	33	43
Warren	3	4	3	0	0	0	0	18	21
Washington	3	4	1	0	0	0	0	7	8
Wayne	4	7	0	1	0	0	0	6	7
Westchester	2	9	128	91	1	0	0	345	565
Wyoming	4	8	1	0	0	0	0	2	3
Yates	4	7	0	0	0	0	0	6	6
Total District		3	15	8	0	0	0	95	118
Total District		4	30	15	0	0	0	139	184
Total District		5	6	3	1	2	0	13	25
Total District		6	13	16	0	0	0	36	65
Total District		7	3	6	0	0	0	64	73
Total District		8	2	7	0	1	0	60	70
Total District		9	238	175	1	0	0	727	1.141
Total District		10	2.055	1.054	1	0	0	88	3.198
Total Outside NYC			2.362	1.284	3	3	0	1.222	4.874

Note: There are no County Courts in New York City.

Table 34
THE COUNTY COURTS — CIVIL TERMS
Actions Disposed of by Type and by County, District and Judicial Department
December 29, 1980 through December 27, 1981

County and Region	Dept.	Dist.	Tort			Tax Certiorari	Condemnation	Other	Total
			Motor Vehicle	Other Tort	Medical Malpractice				
Albany	3	3	1	0	0	0	0	11	12
Allegany	4	8	0	2	0	0	0	2	4
Broome	3	6	2	1	0	0	0	1	4
Cattaraugus	4	8	0	2	0	0	0	2	4
Cayuga	4	7	4	3	0	0	0	10	17
Chautauqua	4	8	0	2	0	0	0	22	24
Chemung	3	6	0	0	0	0	0	0	0
Chenango	3	6	1	0	0	0	0	2	3
Clinton	3	4	0	0	0	0	0	7	7
Columbia	3	3	3	0	0	0	0	15	18
Cortland	3	6	0	0	0	0	0	0	0
Delaware	3	6	0	2	0	0	0	13	15
Dutchess	2	9	50	39	0	0	2	130	221
Erie	4	8	2	4	0	0	0	19	25
Essex	3	4	0	0	0	0	0	2	2
Franklin	3	4	5	1	0	0	0	12	18
Fulton	3	4	6	4	0	0	0	13	23
Genesee	4	8	1	0	0	0	0	7	8
Greene	3	3	5	0	0	0	0	13	18
Hamilton	3	4	0	0	0	0	0	0	0
Herkimer	4	5	1	4	0	0	0	12	17
Jefferson	4	5	0	0	0	0	0	1	1
Lewis	4	5	0	0	0	0	0	0	0
Livingston	4	7	1	2	0	0	0	13	16
Madison	3	6	0	12	0	0	0	0	12
Monroe	4	7	0	0	0	0	0	0	0
Montgomery	3	4	3	3	0	0	0	15	21
Nassau	2	10	711	417	1	0	0	34	1,163
Niagara	4	8	0	0	0	0	0	0	0
Oneida	4	5	0	0	0	0	0	0	0
Onondaga	4	5	0	0	0	0	0	0	0
Ontario	4	7	0	3	0	0	0	5	8
Orange	2	9	71	17	1	0	0	74	163
Orleans	4	8	0	6	0	0	0	0	6
Oswego	4	5	0	1	0	0	0	4	5
Otsego	3	6	0	1	0	0	0	6	7
Putnam	2	9	4	9	0	0	0	36	49
Rensselaer	3	3	1	1	0	0	0	11	13
Rockland	2	9	42	32	0	0	2	89	165
St. Lawrence	3	4	2	1	0	0	0	27	30
Saratoga	3	4	4	0	0	0	0	34	38
Schenectady	3	4	19	15	0	0	0	36	70
Schoharie	3	3	0	0	0	0	0	11	11
Schuyler	3	6	1	1	0	0	0	1	3
Seneca	4	7	0	0	0	0	0	2	2
Steuben	4	7	1	4	0	0	0	21	26
Suffolk	2	10	585	252	0	0	0	54	891
Sullivan	3	3	6	2	0	0	0	7	15
Tioga	3	6	1	0	0	0	0	3	4
Tompkins	3	6	3	1	0	0	0	6	10
Ulster	3	3	5	2	0	0	0	27	34
Warren	3	4	1	0	0	0	0	16	17
Washington	3	4	2	3	0	0	0	6	11
Wayne	4	7	0	2	0	0	0	20	22
Westchester	2	9	133	107	0	0	0	331	571
Wyoming	4	8	0	0	0	0	0	7	7
Yates	4	7	0	0	0	0	0	4	4
Total District		3	21	5	0	0	0	95	121
Total District		4	42	27	0	0	0	168	237
Total District		5	1	5	0	0	0	17	23
Total District		6	8	18	0	0	0	32	58
Total District		7	6	14	0	0	0	75	95
Total District		8	3	16	0	0	0	59	78
Total District		9	300	204	1	0	4	660	1,169
Total District		10	1,296	669	1	0	0	88	2,054
Total Outside NYC			1,677	958	2	0	4	1,194	3,835

Note: There are no County Courts in New York City.

Table 35

THE COUNTY COURT — CIVIL TERMS

Actions Disposed of by Stage and Nature and by County, District, and Judicial Department

December 29, 1980 through December 27, 1981

County, District and Region	Dept.	Dist.	Before Trial			During Trial		After Trial		Total Disposition
			Transferred	Marked/ Stricken	Disc. Withdrawn Settlements	Jury	Non-jury	Jury	Non-jury	
Albany	3	3	11	0	0	0	0	0	1	12
Allegany	4	8	0	1	2	0	0	0	1	4
Broome	3	6	1	1	1	0	0	1	0	4
Cattaraugus	4	8	0	3	1	0	0	0	0	4
Cayuga	4	7	11	0	1	1	0	2	2	17
Chautauqua	4	8	4	1	10	0	0	0	9	24
Chemung	3	6	0	0	0	0	0	0	0	0
Chenango	3	6	0	0	1	0	0	0	2	3
Clinton	3	4	2	2	1	0	2	0	0	7
Columbia	3	3	0	2	14	0	1	0	1	18
Cortland	3	6	0	0	0	0	0	0	0	0
Delaware	3	6	0	3	2	1	1	3	5	15
Dutchess	2	9	103	18	82	3	0	4	11	221
Erie	4	8	7	1	15	1	1	0	0	25
Essex	3	4	0	0	1	0	0	0	1	2
Franklin	3	4	3	2	13	0	0	0	0	18
Fulton	3	4	1	2	14	0	0	1	5	23
Genesee	4	8	0	2	6	0	0	0	0	8
Greene	3	3	0	4	11	1	0	0	2	18
Hamilton	3	4	0	0	0	0	0	0	0	0
Herkimer	4	5	0	0	13	0	0	2	2	17
Jefferson	4	5	1	0	0	0	0	0	0	1
Lewis	4	5	0	0	0	0	0	0	0	0
Livingston	4	7	14	1	1	0	0	0	0	16
Madison	3	6	0	1	6	0	1	2	2	12
Monroe	4	7	0	0	0	0	0	0	0	0
Montgomery	3	4	0	1	13	3	0	2	2	21
Nassau	2	10	40	22	923	115	3	38	22	1.163
Niagara	4	8	0	0	0	0	0	0	0	0
Oneida	4	5	0	0	0	0	0	0	0	0
Onondaga	4	5	0	0	0	0	0	0	0	0
Ontario	4	7	6	1	1	0	0	0	0	8
Orange	2	9	87	7	62	4	0	1	2	163
Orleans	4	8	0	0	3	1	0	0	2	6
Oswego	4	5	0	0	3	0	0	0	2	5
Otsego	3	6	0	2	2	3	0	1	1	7
Putnam	2	9	33	0	10	1	0	1	4	49
Rensselaer	3	3	11	0	2	0	0	0	0	13
Rockland	2	9	96	2	57	1	3	2	4	165
St. Lawrence	3	4	0	2	9	3	10	3	3	30
Saratoga	3	4	0	2	31	1	0	0	4	38
Schenectady	3	4	34	0	31	1	0	1	3	70
Schoharie	3	3	1	1	7	0	0	0	2	11
Schuyler	3	6	0	0	3	0	0	0	0	3
Seneca	4	7	0	0	0	0	0	0	2	2
Steuben	4	7	21	2	3	0	0	0	0	26
Suffolk	2	10	38	40	615	124	0	69	5	891
Sullivan	3	3	0	1	10	0	0	1	3	15
Tioga	3	6	0	4	9	0	0	0	0	4
Tompkins	3	6	2	3	3	0	0	1	1	10
Ulster	3	3	34	0	0	0	0	0	0	34
Warren	3	4	0	0	12	0	0	1	4	17
Washington	3	4	0	1	4	0	0	0	6	11
Wayne	4	7	11	11	0	0	0	0	0	22
Westchester	2	9	329	26	157	3	4	8	44	571
Wyoming	4	8	0	2	2	0	0	0	3	7
Yates	4	7	4	0	0	0	0	0	0	4
Total District		3	57	8	44	1	1	1	9	121
Total District		4	40	12	129	8	12	8	28	237
Total District		5	1	0	16	0	0	2	4	23
Total District		6	3	14	18	2	2	8	11	58
Total District		7	67	15	6	1	0	2	4	95
Total District		8	11	10	39	2	1	0	15	78
Total District		9	648	53	368	12	7	16	65	1.169
Total District		10	78	62	1.538	239	3	107	27	2.054
Total Outside NYC			905	174	2.158	265	26	144	163	3.835

Table 36
THE COUNTY COURT — CIVIL TERMS
Actions Received, Disposed and Changed in Pending and Projected Average Age and by County, District and Judicial Department
December 29, 1980 through December 27, 1981

County, District and Region	Dept.	Dist.	Total Received	Total Disposed	Ending Pending	Change in Pending		Projected Average Age (mos.)
						Actions	Percent	
Albany	3	3	19	12	14	+5	+55%	+11
Allegany	4	8	2	4	2	-1	-33	+8
Broome	3	6	17	4	0	0	0	0
Cattaraugus	4	8	9	4	9	+4	+80	+21
Cayuga	4	7	7	17	1	-3	-75	+2
Chautauqua	4	8	27	24	9	+2	+28	+4
Chemung	3	6	0	0	3	0	0	0
Chenango	3	6	3	3	1	+1	0	+2
Clinton	3	4	3	7	9	-4	-30	+19
Columbia	3	3	7	18	35	-9	-20	+26
Cortland	3	6	0	0	0	0	0	0
Delaware	3	6	14	15	4	-1	-20	+4
Dutchess	2	9	164	221	67	-52	-43	+5
Erie	4	8	15	25	13	-11	-45	+9
Essex	3	4	4	2	3	+2	+200	+12
Franklin	3	4	11	18	10	-8	-44	+9
Fulton	3	4	22	23	25	-3	-10	+14
Genesee	4	8	11	8	4	+3	+300	+4
Greene	3	3	15	18	16	-2	-11	+11
Hamilton	3	4	0	0	0	0	+0	0
Herkimer	4	5	23	17	8	-2	-20	+6
Jefferson	4	5	1	1	0	0	0	0
Lewis	4	5	1	0	1	+1	0	0
Livingston	4	7	17	16	2	+2	0	+1
Madison	3	6	15	12	5	+2	+66	+4
Monroe	4	7	0	0	0	0	0	0
Montgomery	3	4	10	21	21	-9	-30	+15
Nassau	2	10	1.289	1.163	825	+146	+21	+8
Niagara	4	8	0	0	0	0	0	0
Oneida	4	5	0	0	0	0	0	0
Onondaga	4	5	0	0	0	0	0	0
Ontario	4	7	6	8	3	-1	-25	+5
Orange	2	9	152	163	108	-13	-10	+8
Orleans	4	8	3	6	2	-3	-60	+7
Oswego	4	5	0	5	0	0	0	0
Otsego	3	6	7	7	6	-9	-60	+18
Putnam	2	9	23	49	9	-18	-66	+4
Rensselaer	3	3	21	13	19	0	0	+18
Rockland	2	9	237	165	0	0	0	0
St. Lawrence	3	4	19	30	6	-9	-60	+4
Saratoga	3	4	36	38	43	-2	-4	+14
Schenectady	3	4	50	70	65	-20	-23	+13
Schoharie	3	3	10	11	9	-1	-10	+10
Schuyler	3	6	0	3	0	0	0	0
Seneca	4	7	2	2	0	0	0	0
Steuben	4	7	28	26	4	0	0	+2
Suffolk	2	10	1.909	891	1.085	+1.020	+1.569	+8
Sullivan	3	3	3	15	9	-11	-55	+12
Tioga	3	6	0	4	0	0	0	0
Tompkins	3	6	9	10	2	-1	-33	+3
Ulster	3	3	43	34	34	+7	+25	+11
Warren	3	4	21	17	13	+6	+85	+7
Washington	3	4	8	11	4	-2	-33	+5
Wayne	4	7	7	22	2	-4	-66	+2
Westchester	2	9	565	571	128	+12	+10	+3
Wyoming	4	8	3	7	0	0	0	0
Yates	4	7	6	4	1	+1	0	+2
Total District		3	118	121	136	-11	-7	+14
Total District		4	184	237	199	-49	-19	+11
Total District		5	25	23	9	-4	-30	+6
Total District		6	65	58	21	-14	-40	+6
Total District		7	73	95	13	-6	-31	+2
Total District		8	70	78	39	-10	-20	+7
Total District		9	1.141	1.169	312	-133	-29	+4
Total District		10	3.198	2.054	1.910	+1.166	+156	+8
Total Outside NYC			4.874	3.835	2.639	+939	+55	+7

Table 37

THE CIVIL COURT OF THE CITY OF NEW YORK

Actions and Special Proceedings Received[1] by Type and County

December 29, 1980 through December 27, 1981

	Civil Actions Parts				Housing Part										
	Actions				Actions and Special Proceedings to:										
County	Tort	Commercial	Equity	Total	Impose Penalties	Recover Costs	Enforce Liens	Issue Injunctions	Appoint Receiver	Remove Violations of Record	Compel Compliance	Article 7a Proceedings	Article 19	Total	Grand Total
Bronx[2]	1,770	1,075	—	2,845	—	—	—	—	—	—	1,803	50	—	1,853	4,698
Kings[2]	5,742	4,447	—	10,189	367	357	—	—	—	—	1,007	39	—	1,770	11,959
New York[2]	4,778	4,463	—	9,241	—	8	—	—	—	—	1,243	25	—	1,276	10,517
Queens[2]	4,691	2,383	—	7,074	110	—	—	—	—	—	1,014	13	—	1,137	8,211
Richmond	321	633	—	954	—	—	—	—	—	—	26	2	—	28	982
Total New York City	17,302	13,001	—	30,303	477	365	—	—	—	—	5,093	129	—	6,064	36,367

[1] Total of new actions and special proceedings plus restorations plus transfers from other courts plus and/or minus transfers within court

[2] Arbitration Program data not included; for these statistics see chapter 4.

Table 38

THE CIVIL COURT OF THE CITY OF NEW YORK

Actions and Special Proceedings Disposed by Type and County

December 29, 1980 through December 27, 1981

	Civil Actions Parts				Housing Part										
	Actions				Actions and Special Proceedings to:										
County	Tort	Commercial	Equity	Total	Impose Penalties	Recover Costs	Enforce Liens	Issue Injunctions	Appoint Receiver	Remove Violations of Record	Compel Compliance	Article 7a Proceedings	Article 19	Total	Grand Total
Bronx[1]	2,231	1,038	—	3,269	—	—	—	—	—	—	1,708	72	—	1,780	5,049
Kings[1]	5,875	3,406	—	9,281	712	459	—	—	—	—	1,342	47	—	2,560	11,841
New York[1]	4,503	5,529	—	10,032	—	8	—	—	—	—	1,043	28	—	1,079	11,111
Queens[1]	4,648	2,327	—	6,975	110	—	—	—	—	—	947	12	—	1,069	8,044
Richmond	323	723	—	1,046	—	—	—	—	—	—	25	2	—	27	1,073
Total New York City	17,580	13,023	—	30,603	822	467	—	—	—	—	5,065	161	—	6,515	37,118

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[1] Arbitration Program data not included; for these statistics see chapter 4.

Table 39

THE CIVIL COURT OF THE CITY OF NEW YORK

Actions and Special Proceedings Disposed of by Stage and Nature and by County

December 29, 1980 through December 27, 1981

A. CIVIL ACTION PARTS

County	Before Trial				During Trial		After Trial		Interim Dispositions		
	Settle, Discontinued or Dismissed	Default Judgment (Inquest)	Marked off Calendar[1]	Consent Judgment	Settled or Discontinued	Dismissed	Decision of Court	Verdict of Jury	Disagreement or Mistrial	Adjustments by Court	Total
Bronx[2]	2,238	535	313	—	75	5	48	50	5	—	3,269
Kings[2]	6,426	1,231	921	2	337	14	156	168	26	—	9,281
New York[2]	6,209	1,963	1,060	3	191	20	431	146	9	—	10,032
Queens[2]	3,202	1,057	2,413	1	115	10	83	75	19	—	6,975
Richmond	661	182	88	2	28	1	70	9	5	—	1,046
Total New York City	18,736	4,968	4,795	8	746	50	788	448	64	—	30,602

[1] Includes 4 cases that went to the military reserve calendar.

[2] Arbitration Program data not included; for these statistics see Chapter 4.

B. HOUSING PART

County	Before Trial				During Trial		After Trial		Interim Dispositions		
	Settle, Discontinued or Dismissed	Default Judgment (Inquest)	Marked off Calendar	Consent Judgment	Settled or Discontinued	Dismissed	Decision of Court	Verdict of Jury	Disagreement or Mistrial	Adjustments by Court	Total
Bronx	1,138	189	59	—	—	7	387	—	—	—	1,780
Kings	1,815	256	2	105	228	3	151	—	—	—	2,560
New York	642	383	18	—	3	2	31	—	—	—	1,079
Queens	962	90	—	—	—	—	17	—	—	—	1,069
Richmond	8	10	1	4	—	—	4	—	—	—	27
Total New York City	4,565	928	80	109	231	12	590	—	—	—	6,515

Table 40

THE CIVIL COURT OF THE CITY OF NEW YORK

Actions and Special Proceedings Received, Disposed and Change in Pending and Projected Average Age by Part and by County

December 29, 1980 through December 27, 1981

County	Beginning Pending			Received[2]			Disposed			Adjustments by Court		
	Civil Action Parts	Housing Part	Total	Civil Action Parts	Housing Part	Total	Civil Action Parts	Housing Part	Total	Civil Action Parts	Housing Part	Total
Bronx[1]	1.270	210	1.480	2.845	1.853	4.698	3.269	1.780	5.049	—	—	—
Kings[1]	3.984	1.561	5.545	10.189	1.770	11.959	9.281	2.560	11.841	—	—	—
New York[1]	4.460	205	4.665	9.241	1.276	10.517	10.032	1.079	11.111	-327	-367	-694
Queens[1]	1.525	38	1.563	7.074	1.137	8.211	6.975	1.069	8.044	—	—	—
Richmond	588	1	589	954	28	982	1.046	27	1.073	—	—	—
Total New York City	11.827	2.015	13.842	30.303	6.064	36.367	30.603	6.515	37.118	-327	-367	-694

County	Ending Pending[3]			Change in Pending						Projected Avg. Age (mos.)
				Number			Percent			
	Civil Action Parts	Housing Part	Total	Civil Action Parts	Housing Part	Total	Civil Action Parts	Housing Part	Total	
Bronx	846	283	1.129	-424	+73	-351	-33.4	+34.8	-23.7	3.9
Kings	4.892	771	5.663	+908	-790	+118	+22.8	-50.6	+2.1	5.7
New York	3.342	35	3.377	-1.118	-170	-1.288	-25.1	-82.9	-27.6	4.7
Queens	1.624	106	1.730	+99	+68	+167	+6.5	+178.9	+10.7	2.7
Richmond	496	2	498	-92	+1	-91	-15.6	+100.0	-15.4	6.2
Total New York City	11.200	1.197	12.397	-627	-818	-1.445	-5.3	-40.6	-10.4	4.5

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[1] Arbitration Program data not included: for these statistics see Chapter 4.

[2] Total of new actions and special proceedings plus restorations plus transfers from other Courts plus and/or minus transfers within Court.

[3] The ending pending actions of the Civil Actions Parts consisted of 2.673 jury and 8.527 non-jury; the ending pending actions and special proceedings of the Housing Part were all non-jury.

Table 41

THE CIVIL COURT OF THE CITY OF NEW YORK
Summary Proceedings Received[1]
by Type

December 29, 1980 through December 27, 1981

County	Housing Part			Non-Housing Part			Grand Total		
	Jury	Non-Jury	Total	Jury	Non-Jury	Total	Jury	Non-Jury	Total
Bronx	16	29,619	29,635	—	420	420	16	30,039	30,055
Kings	102	39,668	39,770	8	689	697	110	40,357	40,467
New York	330	29,984	30,314	105	5,717	5,822	435	35,701	36,136
Queens	-2	13,876	13,874	2	606	608	—	14,482	14,482
Richmond	1	1,198	1,199	1	28	29	2	1,226	1,228
Total New York City	447	114,345	114,792	116	7,460	7,576	563	121,085	122,368

[1] Total of new summary proceedings plus restorations plus and/or minus transfers within court. There were an additional 207,984 petitions filed in which no answer was filed. Of these about 11 percent resulted in the clerk entering default judgments for which warrants were issued.

Table 42

THE CIVIL COURT OF THE CITY OF NEW YORK
Summary Proceedings Disposed by Type

December 29, 1980 through December 27, 1981

County	Housing Part			Non-Housing Part			Grand Total		
	Jury	Non-Jury	Total	Jury	Non-Jury	Total	Jury	Non-Jury	Total
Bronx	14	29,596	29,610	1	429	430	15	30,025	30,040
Kings	226	38,595	38,821	3	738	741	229	39,333	39,562
New York	210	32,354	32,564	175	4,017	4,192	385	36,371	36,756
Queens	1	13,747	13,748	1	609	610	2	14,356	14,358
Richmond	1	1,163	1,164	1	33	34	2	1,196	1,198
Total New York City	452	115,455	115,907	181	5,826	6,007	633	121,281	121,914

Table 43

THE CIVIL COURT OF THE CITY OF NEW YORK
Summary Proceedings Disposed of
by Stage and Nature and by County

December 29, 1980 through December 27, 1981

County	Before Trial					During Trial		After Trial		Interim Dispositions		
	Settled, Discontinued or Dismissed	Default-No Inquest	Inquest by Court	Marked off Calendar	Referred to Referee	Settled or Discontinued	Dismissed	Decision of Court	Verdict of Jury	Disagreement or Mistrial	Adjustments by Court	Total
Bronx	21,199	6,338	307	115	2	12	1	2,046	20	—	—	30,040
Kings	25,227	8,382	1,260	37	1	1,871	32	2,749	2	1	—	39,562
New York	27,668	5,198	1,360	449	1	240	39	1,764	25	12	—	36,756
Queens	11,214	1,874	770	27	—	256	3	208	—	6	—	14,358
Richmond	517	133	48	4	—	1	—	495	—	—	—	1,198
Total New York City	85,825	21,925	3,745	632	4	2,380	75	7,262	47	19	—	121,914

Table 44

THE CIVIL COURT OF THE CITY OF NEW YORK
Summary Proceedings Received, Disposed and Change in Pending by Calendar and by County

December 29, 1980 through December 27, 1981

County	Beginning Pending			Received[1]			Disposed			Adjustment by Court		
	Jury	Non-Jury	Total	Jury	Non-Jury	Total	Jury	Non-Jury	Total	Jury	Non-Jury	Total
Bronx	6	1,124	1,130	16	30,039	30,055	15	30,025	30,040	—	—	—
Kings	267	967	1,234	110	40,357	40,467	229	39,333	39,562	—	—	—
New York	174	2,327	2,501	435	35,701	36,136	385	36,371	36,756	-128	+572	+444
Queens	5	277	282	—	14,482	14,482	2	14,356	14,358	—	—	—
Richmond	—	63	63	2	1,226	1,228	2	1,196	1,198	—	—	—
Total New York City	452	4,758	5,210	563	121,805	122,368	633	121,281	121,914	-128	+572	+444

County	Ending Pending[2]			Change in Pending					
				Number			Percent		
	Jury	Non-Jury	Total	Jury	Non-Jury	Total	Jury	Non-Jury	Total
Bronx	7	1,138	1,145	+1	+14	+15	+16.7	+1.2	+1.3
Kings	148	1,991	2,139	-119	+1,024	+905	-44.6	+105.9	+73.3
New York	96	2,229	2,325	-78	-98	-176	-44.8	-4.2	-7.0
Queens	3	403	406	-2	+126	+124	-40.0	+45.5	+30.5
Richmond	—	93	93	—	+30	+30	0.0	+47.6	+47.6
Total New York City	254	5,854	6,108	-198	+1,096	+898	-43.8	+23.0	+17.2

[1] Total of new summary proceedings plus restorations plus and/or minus transfers within the court. There were an additional 207,984 petitions filed in which no answer was filed. Of the total number of new summary proceedings about 11 percent resulted in the clerk entering default judgments for which warrants were issued.

[2] The ending pending jury proceedings consisted of 202 Housing Part and 52 Non-Housing; the ending pending non-jury summary proceedings were 5,216 Housing Part and 638 Non-Housing.

Table 45

THE CIVIL COURT OF THE CITY OF NEW YORK
SPECIAL TERM PART I
Dispositions of Contested Motions by Nature and by Type

December 29, 1980 through December 27, 1981

Type of Motion	Total on Calendar	Adjourned	Withdrawn or Marked off Calendar	Granted	Denied
1. Summary judgment	6,600	2,240	530	2,810	1,020
2. Judgment on pleadings	788	185	93	305	205
3. Bring in additional parties	660	150	126	264	120
4. Examination before trial	6,078	2,272	438	2,501	867
5. Bills of particulars	11,233	2,394	1,088	6,655	1,096
6. Security for costs	254	63	46	112	33
7. Dismiss for lack of prosecution	2,825	1,102	291	1,028	404
8. Preference	15	7	3	3	2
9. Change of venue	359	100	52	145	62
10. Interpleader	96	22	23	43	8
11. Discontinue	262	67	26	157	12
12. Stay	433	66	53	221	93
13. Consolidate	1,804	671	159	738	236
14. Re-argue	588	166	62	271	89
15. Restore	4,921	1,299	250	2,939	433
16. Open default	4,287	1,075	325	2,465	422
17. Vacate notice of examination before trial	592	106	105	298	83
18. Vacate subpoena or order in enforcement proceedings	48	32	14	—	2
19. Appoint receiver	54	21	6	16	11
20. Direct payments out of income	204	31	47	92	34
21. Direct garnishee to turn over funds	549	140	58	276	75
22. Miscellaneous	10,465	3,819	1,374	3,625	1,647
Total New York City	53,115	16,028	5,169	24,964	6,954

Table 46
THE CIVIL COURT OF THE CITY OF NEW YORK
SPECIAL TERM PART II
Ex Parte Orders by County and by Type

December 29, 1980 through December 27, 1981

Type of Order	Bronx	Kings	New York	Queens	Richmond	Total N.Y.C.
1. Orders to show cause signed	2,221	3,500	11,865	1,782	692	20,060
2. Action for recovery of a chattel	9,027	16,038	13,917	62	15	39,059
3. Orders for leave to compromise	591	1,053	293	528	260	2,725
4. Enforcement proceedings	263	195	1,164	591	63	2,276
5. Bonds and undertakings	9,036	16,050	14,327	72	33	39,518
6. Contempt motions	49	125	372	441	39	1,026
7. Hearings on sufficiency of service	153	285	1,093	57	33	1,621
8. Change of name	109	678	312	228	32	1,359
9. Orders of attachment issued	...	12	507	...	22	541
10. Warrants of seizure issued	9	...	624	71	...	704
11. Orders of arrest issued	2	...	...	10	...	12
12. Receivers appointed	...	...	2	1	1	4
13. Miscellaneous orders	8,672	5,533	47,785	9,406	1,102	72,498
Total *Ex Parte* Orders	30,132	43,469	92,261	13,249	2,292	181,403

Table 47
THE DISTRICT COURTS AND THE COURTS IN CITIES OUTSIDE THE CITY OF NEW YORK
CIVIL TERMS
Actions Summary Proceeding and Small Claims Received and Disposed by District

December 29, 1980 through December 27, 1981

District	Dispositions								Mis-trials	Small Claims	
					Trials						
	Discon-tinued	Dis-missed	Default	Other	For Plaintiff	For Defendant	Trans. To Arb. (After Conf)	Total		In	Out
District 3	1,188	599	1,659	1,010	1,178	62	11	5,707	...	2,165	2,700
District 4	252	213	328	58	43	...	8	902	...	1,329	1,179
District 5	252	415	1,556	1,603	34	8	22	3,890	...	4,028	3,873
District 6	462	12	335	18	60	6	...	893	2	2,012	1,671
District 7	185	521	2,390	178	93	11	6	3,384	...	2,711	2,697
District 8	1,190	900	4,227	993	366	92	180	7,948	...	6,336	6,149
District 9	716	88	1,402	121	146	12	23	2,508	18	947	834
District 10	10,095	7,976	8,033	1,435	434	82	2,145	30,200	191	24,294	23,275
Total Outside of NYC	14,340	10,724	19,930	5,416	2,354	273	2,395	55,432	211	43,822	42,378

Table 48

THE SURROGATES' COURTS

Proceedings by Type, Judicial Department, District and County

January 1, 1981 through December 31, 1981

Court	Probate Proceedings								Administration Proceedings		Accounting Proceedings[1]			Guardianship Proceedings		Adoption Proceedings	Other Proceedings	
	Petitions for probate of wills	Wills admitted to probate where no objections filed	Wills rejected after inquiry (1408 SCPA)	Wills Admitted Where Objections Filed			Wills rejected after trial of objections	Letters issued upon wills	Letters of administration granted	Affidavits filed for settlement of small estates	Voluntary accountings filed	Petitions for compulsory accountings	Decrees on accounting[2]	Letters of guardianship granted[3]	Contested guardianship trials	Orders of adoptions granted[4]	Orders of compromise in death actions	Other contested matters tried
				Objections withdrawn, settled or dismissed		After trial of objections												
				Before trial	During trial													
FIRST DEPT.																		
1. Bronx	1.689	1.056	0	25	0	1	0	1.150	1.005	491	599	20	232	519	18	152	43	194
New York	3.707	3.062	21	24	1	0	2	4.418	1.405	621	841	108	593	355	0	189	213	6
Total 1st Department	5.396	4.118	21	49	1	1	2	5.568	2.410	1.112	1.440	128	825	874	18	341	256	200
SECOND DEPT.																		
2. Kings	2.442	2.306	8	30	2	0	0	2.763	1.879	1.056	561	97	222	1.219	0	313	304	19
Richmond	594	504	0	6	0	0	0	531	262	178	87	16	34	123	0	84	25	43
9. Dutchess	526	543	0	4	0	2	0	604	160	201	180	9	93	84	0	8	17	10
Orange	562	597	0	1	0	0	0	673	163	97	303	0	48	52	0	11	16	0
Putnam	125	133	0	0	0	0	0	153	72	26	19	3	15	30	0	0	3	30
Rockland	362	349	0	4	0	0	0	384	123	94	39	6	20	98	0	60	29	0
Westchester	2.160	2.193	4	23	0	0	0	2.517	502	323	435	24	220	331	0	55	52	0
10. Nassau	3.557	2.801	0	14	0	1	0	3.082	781	644	2.082	50	227	838	0	377	101	111
Suffolk	2.128	2.063	3	13	2	0	0	2.360	736	713	136	42	164	347	3	139	49	64
11. Queens	3.392	3.156	0	10	8	11	0	3.804	1.524	894	388	61	230	340	0	159	237	0
Total 2nd Department	15.848	14.645	15	105	12	14	0	16.871	6.202	4.226	4.230	308	1.273	3.462	3	1,206	833	277
THIRD DEPT.																		
3. Albany	806	731	0	13	6	0	0	870	239	259	193	20	132	98	0	43	17	4
Columbia	217	222	0	0	1	0	0	225	62	39	29	4	27	18	0	3	3	0
Greene	139	135	0	1	1	0	0	146	37	48	45	1	26	10	0	0	5	7
Rensselaer	416	412	1	4	0	0	0	484	146	164	20	2	59	28	0	32	8	11
Schoharie	113	98	0	0	0	0	0	113	17	24	6	0	6	7	0	0	2	0
Sullivan	261	236	0	6	0	0	0	260	85	34	35	14	10	17	0	0	7	0
Ulster	421	414	0	5	2	0	0	428	112	104	97	8	86	42	0	55	10	0
4. Clinton	162	162	0	0	0	0	0	168	39	64	47	0	17	19	0	50	5	4
Essex	112	99	0	3	0	0	0	108	20	36	66	0	23	7	0	0	2	0
Franklin	131	142	0	0	0	0	0	141	30	31	79	0	14	17	0	35	4	1
Fulton	146	142	0	0	0	0	1	157	57	61	42	1	17	7	0	0	11	0
Hamilton	26	21	0	0	0	0	0	30	9	7	9	0	5	0	0	0	1	0
Montgomery	195	192	0	0	0	0	0	198	40	27	63	0	58	16	0	9	8	0
St. Lawrence	274	235	0	6	0	0	1	296	79	91	97	1	52	41	0	60	8	7
Saratoga	327	318	0	1	0	1	0	339	92	66	148	3	92	48	0	69	14	3
Schenectady	414	413	0	11	0	0	0	461	144	150	117	7	76	33	0	29	14	15
Warren	187	190	0	2	1	0	0	215	48	31	174	3	150	10	0	6	8	1
Washington	169	152	0	0	0	0	0	155	37	21	59	1	26	10	0	2	2	0
6. Broome	556	552	0	4	1	1	2	625	126	92	152	1	128	44	0	0	11	0
Chemung	308	320	0	0	0	1	0	340	48	89	80	5	72	19	0	0	0	3
Chenango	156	145	0	3	0	0	0	149	32	32	24	3	19	7	0	0	4	1
Cortland	149	149	0	0	0	0	0	149	28	34	51	0	32	9	0	0	4	0
Delaware	193	198	0	1	0	0	0	202	40	41	27	5	42	9	2	0	1	0
Madison	183	177	0	0	0	0	0	187	37	35	17	4	21	16	0	0	4	7
Otsego	223	248	0	1	0	0	0	285	49	46	55	3	51	9	0	12	6	0
Schuyler	139	59	0	1	0	0	0	65	11	21	18	0	13	3	0	0	3	0
Tioga	113	113	0	0	0	0	0	119	21	36	15	0	12	12	0	0	3	1
Tompkins	226	189	0	3	0	0	0	191	29	55	166	2	23	13	0	0	5	0
Total 3rd Department	6.762	6.464	1	69	12	3	4	7.106	1.714	1.738	1.931	88	1,289	569	2	405	170	65
FOURTH DEPT.																		
5. Herkimer	233	242	0	0	0	0	0	251	43	24	106	0	113	19	0	1	2	0
Jefferson	240	223	2	0	0	0	0	246	67	26	35	1	15	24	0	0	6	3
Lewis	89	85	0	0	0	0	0	93	20	18	55	1	21	1	0	0	4	0
Oneida	846	851	0	3	0	1	0	897	197	86	116	7	103	74	0	121	13	9
Onondaga	1.464	1.426	0	1	1	0	0	1.547	314	343	490	7	318	208	0	0	47	59
Oswego	266	266	0	1	0	0	0	293	75	47	124	3	106	34	0	12	9	1
7. Cayuga	290	288	0	0	0	0	0	299	55	127	153	3	80	18	0	45	13	15
Livingston	160	153	0	0	0	0	0	168	23	45	18	2	20	22	0	0	5	0
Monroe	2.136	1.954	1	14	2	0	0	2.432	363	541	492	13	258	461	19	169	37	64
Ontario	392	370	0	2	0	0	0	373	114	123	42	4	39	25	0	16	6	0
Seneca	128	120	0	0	0	0	0	126	13	15	42	1	12	9	0	0	1	0
Steuben	359	350	0	1	0	0	0	368	101	48	103	1	42	19	0	9	15	4
Wayne	297	290	0	0	0	0	0	305	58	60	34	0	63	20	0	45	6	0
Yates	102	102	0	0	0	0	0	102	9	6	37	0	37	0	0	0	0	0
8. Allegany	175	175	0	0	0	0	0	175	68	28	97	2	99	25	0	0	0	0
Cattaraugus	299	297	0	3	0	0	0	302	73	46	103	2	103	21	1	4	6	1
Chautauqua	512	512	0	0	0	0	0	538	92	135	100	0	89	51	0	76	14	8
Erie	3.615	3.103	0	10	1	0	0	3.283	784	1.599	1.938	15	625	732	3	312	84	328
Genesee	169	150	0	0	0	0	0	153	42	45	45	1	41	19	0	6	2	2
Niagara	747	678	0	2	1	1	0	679	189	140	343	4	322	63	0	1	15	21
Orleans	118	119	0	0	0	0	0	131	18	28	20	0	17	12	0	0	0	0
Wyoming	153	144	0	0	0	0	0	162	29	19	43	2	41	19	0	1	9	19
Total 4th Department	12.790	11.898	3	37	5	2	0	12.913	2.747	3.549	4.536	69	2.564	1.866	23	818	294	534
Total State	40.796	37.125	40	260	30	20	6	42.458	13.073	10.625	12.137	593	5.951	6.771	46	2.770	1.553	1.076

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[1] Includes accountings filed in small estates.

[2] There were 5.380 where no objections were filed and 537 where objections were withdrawn, settled or dismissed — 379 before trial, 79 during trial and 79 after trial.

[3] In addition, 40 letters of guardianship were denied.

[4] In addition, 67 petitions for adoption were denied, dismissed or withdrawn.

Table 49
(Partial)

FAMILY COURT

Original and Supplementary Petitions, Petitions Added, Deducted and Actively Pending by Type of Proceeding[a]

December 29, 1980 through December 27, 1981[b]

New York City

Original Case Prefix	Type of Proceeding	Petitions Added During Period	Petitions Deducted During Period			Petitions Actively Pending At End of Period
			Withdrawn or Dismissed	Other Deductions	Total	
B	Permanent Neglect	854	4	1,265	1,269	383
N	Child Protective - Neglect	3,022	633	3,726	4,359	1,217
N	Child Protective - Abuse	875	62	407	469	380
D	Juvenile Delinquency	10,965	3,258	8,593	11,851	2,062
S	Persons in Need of Supervision	5,566	2,074	3,909	5,983	573
A	Adoption	353	5	75	80	49
G	Guardianship	168	28	124	152	78
R	Supreme Court Referral	57	27	36	63	12
V	Custody of Minors	4,975	2,149	3,177	5,326	826
K	Foster Care Review	3,250	148	3,045	3,193	218
L	Approval Foster Care Placement	4,334	222	4,616	4,838	409
H	Physically Handicapped	2,983	94	2,659	2,753	276
Q	Mental Defective	16	0	17	17	0
O	Family Offense	10,416	5,887	4,150	10,037	1,240
P	Paternity (Non-ADC)	4,244	2,532	3,896	6,428	623
P	Paternity (ADC)	7,987	4,517	5,549	10,066	1,620
F	Support (Non-ADC)	6,360	3,362	4,926	8,288	1,036
F	Support (ADC)	5,168	1,486	2,372	3,858	1,154
U	Uniform Support of Dependent's Law	6,531	3,003	3,648	6,651	1,082
M	Consent to Marry	256	8	79	87	0
—	Supplementary (Viols./Mods. of Orders/Disps.)	22,511	7,823	16,511	24,334	2,404
C,W	Other	560	8	14	22	15
	Total	101,451	37,330	72,794	110,124	15,657

Upstate

Original Case Prefix	Type of Proceeding	Petitions Added During Period	Petitions Deducted During Period			Petitions Actively Pending At End of Period
			Withdrawn or Dismissed	Other Deductions	Total	
B	Permanent Neglect	521	117	614	731	201
N	Child Protective - Neglect	3,803	1,420	4,650	6,070	1,242
N	Child Protective - Abuse	1,006	147	582	729	353
D	Juvenile Delinquency	12,472	3,657	10,601	14,258	2,417
S	Persons in Need of Supervision	8,327	2,081	7,681	9,762	1,397
A	Adoption	3,052	206	2,484	2,690	816
G	Guardianship	306	236	286	522	73
R	Supreme Court Referral	1,401	368	1,154	1,522	275
V	Custody of Minors	11,973	4,178	6,871	11,049	2,227
K	Foster Care Review	2,897	107	2,472	2,579	503
L	Approval Foster Care Placement	3,482	104	4,262	4,366	498
H	Physically Handicapped	16,116	191	12,719	12,910	991
Q	Mental Defective	9	9	12	21	6
O	Family Offense	13,933	6,547	6,833	13,380	1,367
P	Paternity (Non-ADC)	3,565	945	2,174	3,119	1,053
P	Paternity (ADC)	12,408	2,896	9,284	12,180	2,758
F	Support (Non-ADC)	15,263	6,166	9,855	16,021	2,853
F	Support (ADC)	12,742	4,044	8,597	12,641	1,768
U	Uniform Support of Dependent's Law	18,837	3,404	12,875	16,279	2,261
M	Consent to Marry	264	13	72	85	5
—	Supplementary (Viols./Mods. of Orders/Disps.)	97,448	20,849	70,682	91,531	13,073
C,W	Other	3,538	123	834	957	357
	Total	243,363	57,808	175,594	233,402	36,494

Note: All footnotes appear at the end of this table (see next page).

Table 49

(Concluded)

FAMILY COURT

Original and Supplementary Petitions, Petitions Added, Deducted and Actively Pending by Type of Proceeding[a]

December 29, 1980 through December 27, 1981[b]

New York State

Original Case Prefix	Type of Proceeding	Petitions Added During Period	Petitions Deducted During Period			Petitions Actively Pending At End of Period
			Withdrawn or Dismissed	Other Deductions	Total	
B	Permanent Neglect	1,375	121	1,879	2,000	584
N	Child Protective - Neglect	6,825	2,053	8,376	10,429	2,459
N	Child Protective - Abuse	1,881	209	989	1,198	733
D	Juvenile Delinquency	23,437	6,915	19,194	26,109	4,479
S	Persons in Need of Supervision	13,893	4,155	11,590	15,745	1,970
A	Adoption	3,405	211	2,559	2,770	865
G	Guardianship	474	264	410	674	151
R	Supreme Court Referral	1,458	395	1,190	1,585	287
V	Custody of Minors	16,948	6,327	10,048	16,375	3,053
K	Foster Care Review	6,147	255	5,517	5,772	721
L	Approval Foster Care Placement	7,816	326	8,878	9,204	907
H	Physically Handicapped	19,099	285	15,378	15,663	1,267
Q	Mental Defective	25	9	29	38	6
O	Family Offense	24,349	12,434	10,983	23,417	2,607
P	Paternity (Non-ADC)	7,809	3,477	6,070	9,547	1,676
P	Paternity (ADC)	20,395	7,413	14,833	22,246	4,378
F	Support (Non-ADC)	21,623	9,528	14,781	24,309	3,889
F	Support (ADC)	17,910	5,530	10,969	16,499	2,922
U	Uniform Support of Dependent's Law	25,368	6,407	16,523	22,930	3,343
M	Consent to Marry	520	21	151	172	5
—	Supplementary (Viols./Mods. of Orders/Disps.)	119,959	28,672	87,193	115,865	15,477
C,W	Other	4,098	131	848	979	372
	Total	344,814	95,138	248,388	343,526	52,151

[a] During 1981 a new statistical reporting procedure was tested in several localities throughout the state. While this procedure collected information concerning petitions returned to the active calendar and warrants returned or vacated, it does not provide deduction information by type of proceeding. The amounts shown for each type of proceeding for petitions added, withdrawn, dismissed and other deductions include for the test localities an estimate based on several sample weeks of court activity. This test involves the following counties: Genesee, Nassau, New York, New York Foster Care Review (city wide), Onondaga, Rensselaer, St. Lawrence, Westchester.

[b] Weekly reporting periods began on the first Monday of one year and ended on the Sunday preceding the first Monday of the following year.

Table 50
FAMILY COURT
Court Findings in Child Protective Proceedings, by Sex

January 1, 1981 through December 31, 1981

Region County	Boys							Girls						
	Total	Court Findings at Dispositional Hearing				Court Findings Based on		Total	Court Findings at Dispositional Hearing				Court Findings Based on	
		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	2,811	167	1,495	38	1,111	990	1,821	3,032	327	1,454	39	1,212	1,102	1,930
Total New York City	1,129	92	678	28	331	444	685	1,121	134	636	24	327	454	667
New York	265	3	179	11	72	122	143	214	6	155	7	46	98	116
Kings	353	49	222	14	68	124	229	383	64	228	11	80	136	247
Queens	191	17	87	2	85	51	140	231	34	107	5	85	88	143
Bronx	271	19	161		91	133	138	254	27	130		97	125	129
Richmond	49	4	29	1	15	14	35	39	3	16	1	19	7	32
Total Upstate	1,682	75	817	10	780	546	1,136	1,911	193	818	15	885	648	1,263
Albany	29	9	19		1	28	1	30	7	21		2	27	3
Allegany	13		4		9	4	9	8	2			6	2	6
Broome	39	4	12		23	17	22	40	3	12		25	15	25
Cattaraugus	8		2		6		8	23		6		17	5	18
Cayuga	4		4			4		5		5			5	
Chautauqua	25		14		11	8	17	33	2	16		15	13	20
Chemung	84	3	65	1	15		84	86	6	56		24		86
Chenango	18	2	11		5	1	17	25	6	16		3	4	21
Clinton	24	7	14		3	24		23	7	14		2	22	1
Columbia	3		1		2		3	9	1	5		3	3	6
Cortland	10		7		3	5	5	6	3	2		1	2	4
Delaware	34	2	20		12	16	18	41	7	12	2	20	16	25
Dutchess	28	4	16		8	10	18	45	5	21		19	9	36
Erie	250	7	122	1	120	91	159	296	13	143	1	139	100	196
Essex	3	1			2		3	3		3				3
Franklin	22		10		12	7	15	20	3	10		7	10	10
Fulton	16	1	2		13		16	20		8		12	1	19
Genesee	32		11		21	9	23	41	4	9		28	4	37
Greene	14				14	2	12	14		2		12	8	6
Hamilton								1	1					1
Herkimer	6		1		5	2	4	10		4		6	1	9
Jefferson	22		1		21	1	21	23		2		21	4	19
Lewis	1				1		1							
Livingston	11		10		1	1	10	9		6		3	1	8
Madison	5	1	4			1	4	14	5	8		1	1	13
Monroe	193	8	80		105	82	111	228	31	73	3	121	103	125
Montgomery	3		2		1		3	8		5		3	1	7
Nassau	67		54		13	24	43	95	2	81	2	10	48	47
Niagara	50	3	17		30	18	32	37	3	9		25	8	29
Oneida	12		4	2	8	2	10	13	2	4		7	5	8
Onondaga	141	6	79		54	81	60	166	24	74	5	63	96	70
Ontario	23	1	14		8	13	10	29	6	12		11	17	12
Orange	8		7		1	5	3	9	1	8			8	1
Orleans	14		8	2	4	4	10	16	1	14	1		4	12
Oswego	8	1	4		3	3	5	16	6	5		5	6	10
Otsego	11		7		4	4	7	10	2	6		2	8	2
Putnam														
Rensselaer	10	1	2		7	2	8	6		1		5	1	5
Rockland	6		2		4	1	5	16	2	3		11	1	15
St. Lawrence	4		1	2	1		4	7	1	5		1		7
Saratoga	12		6		6	1	11	19	2	7		10	2	17
Schenectady	45		37	1	7	1	44	36		27		9		36
Schoharie	16		8		8	2	14	10		7		3	2	8
Schuyler	2				2		2	7	4			3	3	4
Seneca	19		3		16	3	16	11		1		10	1	10
Steuben	14		4		10	2	12	10		4		6	4	6
Suffolk	101	2	35	1	63	8	93	102	8	21		73	13	89
Sullivan	14		3		11	3	11	13		1		12	2	11
Tioga	10	4	3		3	6	4	12	2	4		6	6	6
Tompkins	18	1	7		10	3	15	16	1	4		11		16
Ulster	6		1		5	1	5	13	1	2		10	5	8
Warren	12		7		5	2	10	2		1	1		1	1
Washington	2		2			2		2		2			2	
Wayne	36	3	17		16	21	15	50	11	19		20	28	22
Westchester	102	4	49		49	19	83	105	7	35		63	18	87
Wyoming	19		2		17	2	17	16		1		15	1	15
Yates	3		2		1		3	6	1	1		4	1	5

Table 51
FAMILY COURT
The Age of Children in Child Protective Proceedings Involving Child Abuse (Boys Only)
Child's Age When Petition Filed (Last Birthday)
January 1, 1981 through December 31, 1981

Region County	Total	Under 1	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16 or Over	Not Known
Total New York State	563	53	43	33	41	40	34	42	34	30	36	33	21	29	29	23	21	19	2
Total New York City	282	21	27	15	18	20	19	21	20	14	19	14	13	16	15	12	8	9	1
New York	45	7	3	3	4	4	4	2	3	1	3	3	2	3	2	...	...	1	...
Kings	101	5	8	8	5	3	6	7	7	7	7	4	4	5	8	6	6	4	1
Queens	57	4	6	2	4	4	4	3	3	3	7	3	3	2	3	2	2	2	...
Bronx	58	3	8	2	3	7	3	8	4	2	1	4	4	5	2	1	...	1	...
Richmond	21	2	2	...	2	2	2	1	3	1	1	...	...	1	...	3	...	1	...
Total Upstate	281	32	16	18	23	20	15	21	14	16	17	19	8	13	14	11	13	10	1
Albany	9	1	...	1	...	...	...	1	1	...	...	1	...	...	1	...	...	3	...
Allegany	5	...	...	...	1	...	1	1	...	...	...	...	...	...	...	1	1	...	...
Broome	5	2	1	...	...	1	1	...	...	...	...	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	3	...	...	...	...	...	...	...	...	...	...	...	1	1	...	...	1	...	...
Chemung	6	...	...	...	...	...	...	2	1	1	...	...	2	...	...	...	...	...	...
Chenango	2	...	1	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Clinton	7	1	...	...	...	...	...	1	1	...	...	2	...	2	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	2	...	...	1	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Delaware	6	1	...	...	1	...	...	...	1	1	...	1	...	...	...	...	...	1	...
Dutchess	10	1	1	2	...	...	...	...	1	...	...	...	1	...	1	1	2	...	...
Erie	40	2	1	3	4	4	2	4	3	1	6	5	1	2	1	1	...	...	...
Essex	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	3	1	...	1	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Genesee	5	1	...	...	...	...	1	...	...	1	...	...	1	...	...	1	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	3	...	...	...	...	...	...	...	...	1	...	1	...	...	1	...	...	...	...
Jefferson	4	...	1	1	...	...	...	...	...	1	...	...	...	...	...	...	1	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Madison	1	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Monroe	33	3	2	...	5	5	1	1	2	2	1	2	...	1	3	...	4	...	1
Montgomery	1	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	3	1	...	...	...	...	...	1	...	...	...	1	...	...	...	...	...	...	...
Niagara	8	5	...	...	...	...	1	...	...	1	1	...	...	...	...	...	...	...	...
Oneida	5	...	...	2	1	...	...	2	...	...	...	...	...	...	...	...	...	...	...
Onondaga	34	3	2	3	3	3	5	2	...	2	2	2	...	2	2	1	1	1	...
Ontario	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...
Orange	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Orleans	8	...	...	...	1	...	...	2	...	...	...	2	1	1	1	...	...	...	...
Oswego	1	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	5	1	...	...	1	1	...	...	...	...	1	1	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	2	...	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Saratoga	1	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...
Schenectady	5	...	1	1	...	1	...	...	...	...	...	...	...	...	...	1	...	1	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	1	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...
Seneca	5	1	...	...	...	2	...	...	1	1	...	...	...	...	...	...	...	...	...
Steuben	2	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...
Suffolk	8	1	2	...	...	...	...	...	...	...	1	...	...	...	1	3	...	...	...
Sullivan	2	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...
Tioga	5	...	...	...	...	...	...	...	...	...	1	1	...	1	...	...	2	...	...
Tompkins	7	...	...	2	...	...	1	...	...	2	...	...	...	1	1	...	...	...	...
Ulster	2	...	...	...	...	...	1	...	...	...	1	...	...	...	...	...	...	...	...
Warren	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	5	...	...	...	1	...	...	...	...	1	1	...	1	1	...	...	...	...	...
Westchester	17	4	1	...	5	3	...	...	2	...	...	...	...	...	...	1	...	1	...
Wyoming	6	...	...	...	...	...	...	...	1	1	2	...	...	...	1	...	...	1	...
Yates	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...

Table 52

FAMILY COURT

The Age of Children in Child Protective Proceedings Involving Child Abuse (Girls Only)

Child's Age When Petition Filed (Last Birthday)

January 1, 1981 through December 31, 1981

Region County	Total	Under 1	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16 or Over	Not Known
Total New York State	927	53	38	35	40	46	59	46	46	58	41	49	58	58	70	67	69	88	6
Total New York City	357	24	18	20	18	22	27	15	17	15	19	18	19	15	24	25	24	32	5
New York	56	8	2	4	3	4	1	1	6	3	1	4	5	2	3	1	3	1	4
Kings	135	8	6	4	7	10	16	8	5	6	8	6	8	4	4	9	10	15	1
Queens	92	3	5	6	2	5	6	2	4	3	3	4	4	6	10	10	9	10	...
Bronx	66	5	4	6	4	2	3	4	2	3	7	4	2	3	7	4	2	4	...
Richmond	8	...	1	...	2	1	1	...	...	...	...	...	...	...	...	1	...	2	...
Total Upstate	570	29	20	15	22	24	32	31	29	43	22	31	39	43	46	42	45	56	1
Albany	8	2	...	...	...	1	1	...	...	2	1	1	...	...	...	...	...	...	...
Allegany	7	...	...	...	...	1	1	...	1	...	...	...	2	...	1	1	...	...	...
Broome	7	...	1	...	1	...	...	1	...	...	...	...	1	...	1	...	1	1	...
Cattaraugus	2	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	1	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	6	...	...	...	...	...	...	...	...	2	1	1	...	...	...	1	...	1	...
Chemung	17	...	1	...	1	1	2	2	...	...	...	...	1	...	2	1	2	4	...
Chenango	9	1	...	1	...	...	...	...	...	1	...	1	...	2	1	2	...	...	...
Clinton	12	...	...	...	...	...	...	1	...	3	2	1	...	1	...	2	2	...	...
Columbia	6	2	...	...	...	1	...	1	...	...	...	...	1	1	...	...	...	...	...
Cortland	3	...	...	...	...	...	...	...	1	...	...	...	...	2	...	...	...	...	...
Delaware	14	1	2	1	...	...	1	...	1	...	...	...	1	1	2	...	...	4	...
Dutchess	17	3	...	...	...	...	...	...	2	1	...	...	1	6	3	...	1	...	...
Erie	81	6	3	2	6	2	4	5	6	6	4	4	6	5	6	6	1	9	...
Essex	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	3	...	1	...	...	...	...	2	...	...	...	...	...	...	...	...	...	...	...
Fulton	11	...	...	...	...	...	...	1	2	1	3	...	2	...	...	...	1	1	...
Genesee	12	...	...	...	...	1	...	...	...	1	...	...	2	...	2	1	2	3	...
Greene	4	2	...	...	...	...	1	...	...	...	...	...	...	...	...	...	1	...	...
Hamilton	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...
Herkimer	5	...	...	...	...	...	...	1	...	1	...	1	...	...	...	1	...	1	...
Jefferson	10	1	1	...	1	...	...	1	...	2	...	...	1	...	...	1	2	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...
Madison	6	...	...	...	...	1	...	...	1	1	...	1	...	...	...	...	1	1	...
Monroe	86	2	...	4	4	4	8	7	5	8	5	6	9	8	5	2	6	3	...
Montgomery	3	...	...	...	...	...	...	...	...	...	...	...	...	...	1	1	...	1	...
Nassau	19	1	1	...	...	...	2	...	...	...	2	1	...	2	2	2	3	2	1
Niagara	9	...	1	...	2	...	...	1	1	...	...	...	...	1	1	1	1	...	...
Oneida	4	...	1	...	...	...	...	...	...	1	...	1	...	...	...	...	1	...	...
Onondaga	64	5	3	...	3	7	6	2	3	5	1	2	1	6	4	5	5	6	...
Ontario	11	...	1	...	...	...	...	1	...	1	...	...	...	...	1	3	1	3	...
Orange	1	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Orleans	10	...	...	2	...	1	...	1	...	...	...	1	2	1	...	1	...	1	...
Oswego	8	1	2	...	...	...	...	...	...	...	...	1	1	...	1	1	...	1	...
Otsego	2	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	1	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	5	...	...	...	1	...	1	...	...	...	...	...	1	...	...	...	1	1	...
Rockland	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	1	...
St. Lawrence	2	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...
Saratoga	3	...	...	1	...	...	...	...	...	...	...	...	...	...	...	1	...	1	...
Schenectady	8	...	...	...	1	...	1	...	...	1	1	3	...	...	...	...	...	1	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	6	...	...	...	...	2	...	...	...	1	...	1	...	...	1	...	1	...	...
Seneca	5	...	2	...	...	...	2	...	...	...	...	...	1	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Suffolk	18	...	...	1	1	...	...	...	1	...	...	1	1	1	1	3	5	3	...
Sullivan	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...	...	...	...	...
Tioga	6	...	...	...	...	...	...	...	...	...	...	...	...	...	3	...	2	1	...
Tompkins	3	...	...	...	...	...	...	...	...	...	...	1	...	...	...	1	1	...	...
Ulster	5	...	...	...	...	1	...	...	1	1	...	...	1	...	...	...	...	1	...
Warren	1	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	19	2	...	...	...	1	...	...	1	2	1	1	2	3	3	2	...	1	...
Westchester	21	...	...	2	...	...	2	4	1	...	...	1	2	2	4	1	1	1	...
Wyoming	4	...	...	...	...	...	...	...	...	...	...	1	...	...	1	2	...	...	...
Yates	1	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...

Table 53
FAMILY COURT
Reasons for Petitions in Child Protective Proceedings Involving Child Abuse (Boys Only)
January 1, 1981 through December 31, 1981

Region County	Total Reasons (Child Abuse Only)*	Reasons for Petitions													
		Child Abuse			Neglected Child										
		Physical Abuse	Risk of Physical Injury	Sex Offense Against Child	Impairment of Mental, Emotional Or Physical Health	Inadequate Food, Shelter Or Clothing	Inadequate Educational Care	Inadequate Medical or Surgical Care	Abandonment or Desertion	Parental Use of Drugs	Parental Alcoholism	Parental Sexual Misconduct	Parental Mental Illness	Parental Fighting	Other
Total New York State	221	116	48	57	33	7	7	6	2	4	8	...	...	...	2
Total New York City	141	74	38	29	22	2	3	3	2	3	6	...	...	...	...
New York	20	8	6	6	2	1	...	...	1	1	...	...	...	...	...
Kings	81	38	25	18	17	1	3	1	1	...	5	...	...	...	...
Queens	19	16	1	2	...	...	...	1	...	2	1	...	...	...	...
Bronx	18	9	6	3	1	...	...	1	...	...	...	...	...	...	...
Richmond	3	3	...	...	2	...	...	...	...	...	...	...	...	...	...
Total Upstate	80	42	10	28	11	5	4	3	...	1	2	...	...	...	2
Albany	9	8	1	...	1	...	...	...	...	...	...	...	...	...	...
Allegany	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Broome	4	2	1	1	...	...	...	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	3	...	...	3	...	...	...	1	...	...	1	...	...	...	...
Chenango	2	1	...	1	...	...	...	...	...	...	...	...	...	...	...
Clinton	5	5	...	...	1	...	1	...	...	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	2	1	...	1	...	...	...	...	...	...	...	...	...	...	...
Dutchess	4	1	2	1	...	...	...	...	...	...	...	...	...	...	...
Erie	5	2	1	2	1	1	...	...	...	1	1	...	...	...	1
Essex	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Genesee	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Jefferson	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Madison	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Monroe	8	4	2	2	3	2	1	...	...	...	...	...	...	...	...
Montgomery	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Niagara	4	3	1	...	...	...	...	...	...	...	...	...	...	...	...
Oneida	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Onondaga	9	5	...	4	1	...	...	...	...	...	...	...	...	...	1
Ontario	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Orange	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Orleans	2	...	...	2	...	...	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	1	1	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	2	1	1	...	...	1	...	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	1	1	...	...	1	...	...	1	...	...	...	...	...	...	...
Saratoga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schenectady	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Suffolk	2	...	...	2	...	...	1	...	...	...	...	...	...	...	...
Sullivan	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tioga	4	...	...	4	...	...	...	...	...	...	...	...	...	...	...
Tompkins	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Ulster	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Warren	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	3	1	...	2	...	...	...	...	...	...	...	...	...	...	...
Westchester	5	3	1	1	2	...	1	1	...	...	...	...	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...

*Due to the reporting of multiple reasons for petitions, the number of reasons exceed the number of petitions reported as initially disposed.

Table 54
FAMILY COURT
Reasons for Petitions in Child Protective Proceedings Involving Child Abuse (Girls Only)

January 1, 1981 through December 31, 1981

Region County	Total Reasons (Child Abuse Only)*	Reasons for Petitions: Child Abuse: Physical Abuse	Risk of Physical Injury	Sex Offense Against Child	Neglected Child: Impairment of Mental, Emotional Or Physical Health	Inadequate Food, Shelter Or Clothing	Inadequate Educational Care	Inadequate Medical or Surgical Care	Abandonment or Desertion	Parental Use of Drugs	Parental Alcoholism	Parental Sexual Misconduct	Parental Mental Illness	Parental Fighting	Other
Total New York State	407	142	37	228	36	5	9	3	1	5	5	5	...	...	...
Total New York City	193	84	26	83	16	1	5	...	1	5	4	2	...	...	...
New York	24	9	6	9	1		1								
Kings	91	29	16	46	11	1	1		1		1	1			
Queens	45	25	1	19	3		3			5	2	1			
Bronx	29	17	3	9							1				
Richmond	4	4			1										
Total Upstate	214	58	11	145	20	4	4	3	...	...	1	3	...	...	...
Albany	7	5	1	1											
Allegany	2	2													
Broome	3			3											
Cattaraugus															
Cayuga															
Chautauqua	2			2											
Chemung	7	1	1	5											
Chenango	6	1		5											
Clinton	7	4		3											
Columbia	1			1											
Cortland	3	2		1											
Delaware	9	2	1	6	2										
Dutchess	6	2		4											
Erie	13	3		10			1				1				
Essex															
Franklin	3	3													
Fulton															
Genesee	4	1		3											
Greene															
Hamilton	1			1											
Herkimer															
Jefferson															
Lewis															
Livingston															
Madison	5			5											
Monroe	36	13	3	20	5	1	1								
Montgomery															
Nassau	2			2	4							1			
Niagara	3	1		2											
Oneida	2			2											
Onondaga	34	8	1	25	1	1									
Ontario	6			6											
Orange	1	1				1									
Orleans	2	1		1	1			1							
Oswego	5			5		1						1			
Otsego	2			2											
Putnam															
Rensselaer															
Rockland	3	1	1	1								1			
St. Lawrence	1	1													
Saratoga	2			2											
Schenectady															
Schoharie															
Schuyler	4	1		3											
Seneca															
Steuben															
Suffolk	8			8											
Sullivan															
Tioga	2			2											
Tompkins	1			1											
Ulster	1			1											
Warren					1										
Washington															
Wayne	10			10	1										
Westchester	9	5	3	1	5		2	2							
Wyoming															
Yates	1			1											

*Due to the reporting of multiple reasons for petitions, the number of reasons exceed the number of petitions reported as initially disposed.

Table 55
FAMILY COURT
Child Protective Proceedings Involving Child Abuse (Boys Only)
Types of Petitioners

January 1, 1981 through December 31, 1981

Region County	Total	Petition Originated By													
		Respondent's Parent	Respondent's Child	Respondent's Spouse or Former Spouse	Other Members of Respondent's Family or Household	Corporation Counsel/ County Attorney	Assistant District Attorney	Police or Peace Officer	Public Social Services Agency	Public Health Agency	Authorized Private Agency	School (On Court's Motion)	Hospital (On Court's Motion)	Private Medical Doctor (On Court's Motion)	Other
Total New York State	563	4	2	2	1	6	...	...	511	7	28	1	...	...	1
Total New York City	282	3	...	...	1	3	...	...	241	6	27	...	...	...	1
New York	45	...	...	...	...	...	...	...	41	...	4	...	...	...	...
Kings	101	3	...	...	1	2	...	...	74	2	18	...	...	...	1
Queens	57	...	...	...	...	1	...	...	48	3	5	...	...	...	...
Bronx	58	...	...	...	...	...	...	...	57	1	...	...	...	...	...
Richmond	21	...	...	...	...	...	...	...	21	...	...	...	...	...	...
Total Upstate	281	1	2	2	...	3	...	...	270	1	1	1	...	...	...
Albany	9	...	...	...	...	...	...	...	9	...	...	...	...	...	...
Allegany	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
Broome	5	...	...	1	...	...	...	...	4	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	3	...	...	...	...	...	...	...	3	...	...	...	...	...	...
Chemung	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Chenango	2	1	...	...	...	...	...	...	1	...	...	...	...	...	...
Clinton	7	...	...	...	...	...	...	...	7	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
Delaware	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Dutchess	10	...	2	...	...	...	...	...	8	...	...	...	...	...	...
Erie	40	...	...	...	...	...	...	...	39	1	...	...	...	...	...
Essex	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	3	...	...	...	...	...	...	...	3	...	...	...	...	...	...
Genesee	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	3	...	...	...	...	...	...	...	3	...	...	...	...	...	...
Jefferson	4	...	...	...	...	...	...	...	4	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Madison	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Monroe	33	...	...	...	...	...	...	...	33	...	...	...	...	...	...
Montgomery	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Nassau	3	...	...	...	...	...	...	...	3	...	...	...	...	...	...
Niagara	8	...	...	...	...	...	...	...	8	...	...	...	...	...	...
Oneida	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
Onondaga	34	...	...	...	...	...	...	...	34	...	...	...	...	...	...
Ontario	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Orange	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Orleans	8	...	...	...	...	...	...	...	8	...	...	...	...	...	...
Oswego	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
Saratoga	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Schenectady	5	...	...	...	...	...	...	...	4	...	1	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Seneca	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
Steuben	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
Suffolk	8	...	...	...	...	...	...	...	7	...	...	1	...	...	...
Sullivan	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
Tioga	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
Tompkins	7	...	...	...	...	...	...	...	7	...	...	...	...	...	...
Ulster	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
Warren	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
Westchester	17	...	...	...	...	3	...	...	14	...	...	...	...	...	...
Wyoming	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Yates	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...

Table 56

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Girls Only)

Types of Petitioners

January 1, 1981 through December 31, 1981

Region County	Total	Petition Originated By													
		Respondent's Parent	Respondent's Child	Respondent's Spouse or Former Spouse	Other Members of Respondent's Family or Household	Corporation Counsel/ County Attorney	Assistant District Attorney	Police or Peace Officer	Public Social Services Agency	Public Health Agency	Authorized Private Agency	School (On Court's Motion)	Hospital (On Court's Motion)	Private Medical Doctor (On Court's Motion)	Other
Total New York State	927	2	1	...	...	4	5	4	844	10	56	...	...	...	1
Total New York City	357	2	...	...	...	1	1	...	291	6	55	...	...	...	1
New York	56	...	...	...	...	...	...	...	51	...	5	...	...	...	...
Kings	135	1	...	...	...	1	1	...	94	1	36	...	...	...	1
Queens	92	...	...	...	...	...	...	...	75	3	14	...	...	...	...
Bronx	66	1	...	...	...	...	...	...	63	2	...	...	...	...	...
Richmond	8	...	...	...	...	...	...	...	8	...	...	...	...	...	...
Total Upstate	570	...	1	...	...	3	4	4	553	4	1	...	...	...	...
Albany	8	...	...	...	...	...	...	...	8	...	...	...	...	...	...
Allegany	7	...	...	...	...	...	...	...	7	...	...	...	...	...	...
Broome	7	...	...	...	...	...	...	...	7	...	...	...	...	...	...
Cattaraugus	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Chemung	17	...	...	...	...	...	...	...	17	...	...	...	...	...	...
Chenango	9	...	...	...	...	...	...	...	9	...	...	...	...	...	...
Clinton	12	...	...	...	...	...	...	...	11	1	...	...	...	...	...
Columbia	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Cortland	3	...	...	...	...	...	...	...	3	...	...	...	...	...	...
Delaware	14	...	...	...	...	...	...	...	14	...	...	...	...	...	...
Dutchess	17	...	...	...	...	...	...	...	17	...	...	...	...	...	...
Erie	81	...	...	...	...	...	...	...	81	...	...	...	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	3	...	...	...	...	...	...	...	3	...	...	...	...	...	...
Fulton	11	...	...	...	...	...	...	...	11	...	...	...	...	...	...
Genesee	12	...	...	...	...	...	...	...	12	...	...	...	...	...	...
Greene	4	...	...	...	...	...	...	...	4	...	...	...	...	...	...
Hamilton	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Herkimer	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
Jefferson	10	...	...	...	...	...	...	...	10	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Madison	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Monroe	86	...	1	...	...	...	4	4	75	2	...	...	...	...	...
Montgomery	3	...	...	...	...	...	...	...	3	...	...	...	...	...	...
Nassau	19	...	...	...	...	...	...	...	19	...	...	...	...	...	...
Niagara	9	...	...	...	...	...	...	...	9	...	...	...	...	...	...
Oneida	4	...	...	...	...	...	...	...	4	...	...	...	...	...	...
Onondaga	64	...	...	...	...	...	...	...	63	1	...	...	...	...	...
Ontario	11	...	...	...	...	...	...	...	11	...	...	...	...	...	...
Orange	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Orleans	10	...	...	...	...	...	...	...	10	...	...	...	...	...	...
Oswego	8	...	...	...	...	...	...	...	8	...	...	...	...	...	...
Otsego	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
Rockland	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
St. Lawrence	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
Saratoga	3	...	...	...	...	...	...	...	3	...	...	...	...	...	...
Schenectady	8	...	...	...	...	...	...	...	8	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Seneca	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Suffolk	18	...	...	...	...	...	...	...	18	...	...	...	...	...	...
Sullivan	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
Tioga	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Tompkins	3	...	...	...	...	...	...	...	3	...	...	...	...	...	...
Ulster	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
Warren	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	19	...	...	...	...	...	...	...	19	...	...	...	...	...	...
Westchester	21	...	...	...	...	3	...	...	17	...	1	...	...	...	...
Wyoming	4	...	...	...	...	...	...	...	4	...	...	...	...	...	...
Yates	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...

Table 57
FAMILY COURT
Temporary Removal of Children in Child Protective Proceedings Involving Child Abuse (Boys Only)
January 1, 1981 through December 31, 1981

			Temporary Removal		Length of Removal After Petition								
Region County	Total*	No Temporary Removal	Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 Days Or More
Total New York State	563	213	102	333	25	20	13	21	77	99	62	12	4
Total New York City	282	113	9	168	9	2	7	8	34	59	42	6	1
New York	45	9	4	36	1	1	4	3	7	18	2	...	...
Kings	101	43	1	58	7	...	1	3	11	18	16	1	1
Queens	57	31	4	25	1	...	2	...	5	7	9	1	...
Bronx	58	17	...	41	...	1	...	2	9	12	13	4	...
Richmond	21	13	...	8	...	...	...	...	2	4	2	...	...
Total Upstate	281	100	93	165	16	18	6	13	43	40	20	6	3
Albany	9	1	...	8	...	...	...	...	6	2	...	...	...
Allegany	5	5	...	...	...	...	...	...	...	...	...	...	...
Broome	5	...	2	3	2	...	...	1	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	3	3	...	...	...	...	...	...	...	...	...	...	...
Chemung	6	2	2	4	...	...	2	...	1	1	...	...	...
Chenango	2	...	2	2	...	...	...	...	1	1	...	...	...
Clinton	7	5	1	2	...	...	...	...	2	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	2	2	...	...	...	...	...	...	...	...	...	...	...
Delaware	6	5	...	1	...	...	1	...	...	...	...	...	...
Dutchess	10	...	9	9	2	...	1	3	2	1	...	...	...
Erie	40	11	...	29	2	4	1	5	4	12	...	1	...
Essex	1	...	1	1	...	...	...	...	...	...	1	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	3	1	2	2	1	...	...	...	1	...	...	...	...
Genesee	5	4	...	1	...	...	...	...	1	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	3	...	3	3	...	...	...	...	...	...	...	...	3
Jefferson	4	2	1	2	...	...	1	...	1	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...	...	...
Madison	1	...	1	1	...	...	...	...	...	...	1	...	...
Monroe	33	19	8	12	2	3	...	...	2	2	3	...	...
Montgomery	1	1	...	...	...	...	...	...	...	...	...	...	...
Nassau	3	...	2	1	1	...	...	...	...	...	...	...	...
Niagara	8	...	7	8	...	2	...	...	2	1	3	...	...
Oneida	5	4	...	1	1	...	...	...	...	...	...	...	...
Onondaga	34	11	17	23	...	1	...	...	12	8	2	...	...
Ontario	1	1	...	...	...	...	...	...	...	...	...	...	...
Orange	1	...	...	1	...	...	...	...	...	...	1	...	...
Orleans	8	1	4	7	...	...	...	2	...	3	2	...	...
Oswego	1	...	1	1	...	...	...	...	...	1	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	5	4	1	1	...	1	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	2	...	2	...	...	...	...	...	...	...	...	...	...
Saratoga	1	...	1	1	...	...	...	...	1	...	...	...	...
Schenectady	5	2	1	3	...	...	...	...	2	1	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	1	...	1	1	1	...	...	...	...	...	...	...	...
Seneca	5	...	3	2	1	...	...	...	...	1	...	...	...
Steuben	2	...	2	1	...	...	...	...	...	1	...	...	...
Suffolk	8	3	5	3	2	...	...	1	...	...	...	...	...
Sullivan	2	1		1	...	...	...	...	...	...	...	1	...
Tioga	5	...	...	5	...	...	...	...	...	4	1	...	...
Tompkins	7	...	7	7	...	6	...	...	...	1	...	...	...
Ulster	2	...	...	2	...	...	...	...	1	...	1	...	...
Warren	...	...	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	5	2	1	3	...	...	...	...	...	...	3	...	...
Westchester	17	6	5	10	1	1	...	1	1	...	2	4	...
Wyoming	6	4	...	2	...	...	...	...	2	...	...	...	...
Yates	1	...	1	1	...	...	...	...	1	...	...	...	...

*Figures in Columns 2, 3 and 4 exceed Total because some proceedings are included in both Columns 3 and 4. There were 85 such proceedings statewide.

Table 58

FAMILY COURT

Temporary Removal of Children in Child Protective Proceedings Involving Child Abuse (Girls Only)

January 1, 1981 through December 31, 1981

Region County	Total*	No Temporary Removal	Temporary Removal		Length of Removal After Petition								
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 Days or More
Total New York State	927	381	176	525	51	26	21	33	133	159	82	16	4
Total New York City	357	129	8	227	16	4	6	13	47	90	42	8	1
New York	56	15	...	41	1	...	1	5	8	24	2	...	...
Kings	135	54	2	80	8	1	3	4	16	31	15	1	1
Queens	92	44	6	48	1	3	2	3	18	11	6	4	...
Bronx	66	14	...	52	5	...	...	1	5	22	16	3	...
Richmond	8	2	...	6	1	...	...	...	...	2	3	...	...
Total Upstate	570	252	168	298	35	22	15	20	86	69	40	8	3
Albany	8	1	...	7	...	...	...	2	3	2	...	...	...
Allegany	7	4	...	3	1	...	...	...	...	2	...	...	...
Broome	7	3	...	4	2	...	1	...	...	1	...	...	...
Cattaraugus	2	1	1	1	...	...	1	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	6	3	...	3	...	...	...	...	3	...	...	...	...
Chemung	17	7	6	10	1	1	3	...	2	3	...	...	...
Chenango	9	4	3	5	...	...	1	...	1	2	1	...	...
Clinton	12	6	2	6	...	...	...	...	5	1	...	...	...
Columbia	6	...	5	6	1	...	...	...	2	2	1	...	...
Cortland	3	3	...	...	...	...	...	...	...	...	...	...	...
Delaware	14	8	6	6	...	...	1	...	4	1	...	...	...
Dutchess	17	5	9	11	...	...	...	5	4	2	...	...	...
Erie	81	34	...	47	5	12	3	3	13	10	...	1	...
Essex	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	3	...	3	3	...	...	...	...	...	3	...	...	...
Fulton	11	3	8	8	...	2	...	...	5	1	...	...	...
Genesee	12	8	1	4	...	1	...	1	2	...	...	...	...
Greene	4	...	2	4	2	1	...	...	...	...	1	...	...
Hamilton	1	...	1	1	...	...	...	...	1	...	...	...	...
Herkimer	5	2	3	3	...	...	...	...	...	1	...	...	2
Jefferson	10	5	1	5	2	...	1	...	2	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	1	1	...	...	...	...	...	...	...	...	...	...	...
Madison	6	1	5	4	...	...	...	...	...	...	4	...	...
Monroe	86	42	29	39	4	...	...	2	9	6	13	3	...
Montgomery	3	2	...	1	...	...	...	...	...	1	...	...	...
Nassau	19	11	6	5	1	...	1	...	2	1	...	...	...
Niagara	9	2	7	5	...	1	1	...	2	1	...	...	...
Oneida	4	3	...	1	...	...	...	1	...	...	...	...	...
Onondaga	64	28	26	35	2	...	1	1	12	10	8	...	1
Ontario	11	8	1	3	...	...	...	...	...	3	...	...	...
Orange	1	...	1	1	...	...	...	...	...	1	...	...	...
Orleans	10	1	2	9	...	...	...	1	3	4	1	...	...
Oswego	8	6	2	2	1	...	1	...	...	...	...	...	...
Otsego	2	...	...	2	...	...	...	...	...	...	2	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	5	3	2	2	...	...	...	...	...	2	...	...	...
Rockland	2	2	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	2	2	...	...	...	...	...	...	...	...	...	...	...
Saratoga	3	3	...	...	...	...	...	...	...	...	...	...	...
Schenectady	8	4	2	4	...	...	...	1	2	...	1	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	6	...	6	6	3	...	...	...	3	...	...	...	...
Seneca	5	...	3	2	2	...	...	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...	...	...	...	...
Suffolk	18	7	7	11	7	...	...	1	...	1	1	...	...
Sullivan	2	...	1	2	...	...	...	1	...	1	...	...	...
Tioga	6	2	2	4	...	...	...	...	...	4	...	...	...
Tompkins	3	1	2	2	...	2	...	...	1	...	...	...	...
Ulster	5	2	2	3	...	...	...	...	...	...	2	...	...
Warren	1	...	1	1	...	...	...	...	...	1	...	...	...
Washington	...	...	...	...	...	...	...	...	1	...	...	...	...
Wayne	19	15	1	4	...	...	...	...	2	...	3	...	...
Westchester	21	6	9	11	1	...	...	...	1	2	2	4	...
Wyoming	4	2	...	2	...	...	...	1	...	...	...	...	...
Yates	1	1	...	...	...	...	...	...	...	...	...	...	...

*Figures in Columns 2, 3 and 4 exceed Total because some proceedings are included in both Columns 3 and 4. There were 155 such proceedings statewide.

Table 59

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Boys Only) Length of Time Between Filing of Petition and Initial Fact-Finding Hearing

January 1, 1981 through December 31, 1981

Region County	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Number of Cases Without IFH
Total New York State	563	116	28	33	13	150	80	37	9	1	96
Total New York City	282	12	8	13	8	74	65	20	5	1	76
New York	45	4	1	2	4	23	5	...	...	...	6
Kings	101	3	1	1	2	20	23	12	1	1	37
Queens	57	3	3	2	...	11	11	6	2	...	19
Bronx	58	...	3	8	2	9	19	2	2	...	13
Richmond	21	2	...	...	...	11	7	...	...	...	1
Total Upstate	281	104	20	20	5	76	15	17	4	...	20
Albany	9	1	...	...	...	6	1	1	...	...	...
Allegany	5	...	...	...	...	1	...	4	...	...	...
Broome	5	1	...	...	...	4	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	3	3	...	...	...	...	...	...	...	...	...
Chemung	6	1	1	2	...	1	...	1	...	...	...
Chenango	2	...	...	...	...	1	1	...	...	...	...
Clinton	7	...	...	...	...	7	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...
Cortland	2	...	...	...	...	1	...	...	...	...	1
Delaware	6	2	1	1	...	2	...	...	...	...	...
Dutchess	10	4	1	...	...	2	...	...	...	...	3
Erie	40	37	3	...	...	...	...	...	...	...	...
Essex	1	...	...	...	...	1	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...
Fulton	3	2	...	...	...	1	...	...	...	...	...
Genesee	5	...	...	...	...	5	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...
Hamilton									...	...	...
Herkimer	3	3							...	...	...
Jefferson	4	2			1	1			...	...	...
Lewis									...	...	...
Livingston									...	...	...
Madison	1							1	...	...	
Monroe	33		...	1	1	10	5	1	2	...	13
Montgomery	1				1				...	...	
Nassau	3	3							...	...	
Niagara	8		2	2	2	1		1	...	...	
Oneida	5	3				1	1		...	...	
Onondaga	34	5	3	1		20	4		...	...	1
Ontario	1	1							...	...	
Orange	1					1			...	...	
Orleans	8		3			5			...	...	
Oswego	1					1			...	...	
Otsego									...	...	
Putnam									...	...	
Rensselaer	5	4	1						...	...	
Rockland									...	...	
St. Lawrence	2	2							...	...	
Saratoga	1					1			...	...	
Schenectady	5			2		1	1		...	...	1
Schoharie									...	...	
Schuyler	1	1							...	...	
Seneca	5	2				2	1		...	...	
Steuben	2	1	1						...	...	
Suffolk	8	5	1	2						...	
Sullivan	2	1	1						...	...	
Tioga	5	5							...	...	
Tompkins	7		1	6					...	...	
Ulster	2	1					1		...	...	
Warren									...	...	
Washington									...	...	
Wayne	5			2				3	...	...	
Westchester	17	9						5	2	...	1
Wyoming	6	5	1						...	...	
Yates	1		...	1					...	...	

Table 60
FAMILY COURT
Child Protective Proceedings Involving Child Abuse (Girls Only)
Length of Time Between Filing of Petition and Initial Fact-Finding Hearing

January 1, 1981 through December 31, 1981

Region County	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Number of Cases Without IFH
Total New York State	927	190	48	56	34	238	140	66	6	...	149
Total New York City	357	10	10	20	11	93	78	24	5	...	106
New York	56	4	4	5	5	25	9	...	...	...	4
Kings	135	1	1	6	3	34	25	10	2	...	53
Queens	92	1	4	4	1	11	25	13	3	...	30
Bronx	66	2	1	5	2	22	16	1	...	...	17
Richmond	8	2	...	...	...	1	3	...	...	...	2
Total Upstate	570	180	38	36	23	145	62	42	1	...	43
Albany	8	...	2	...	...	4	1	1	...	...	...
Allegany	7	1	...	...	...	...	3	2	...	...	1
Broome	7	1	...	2	...	3	1	...	...	...	...
Cattaraugus	2	...	...	...	...	1	...	1	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	6	6	...	...	...	...	...	...	...	...	...
Chemung	17	1	...	6	...	5	3	2	...	...	...
Chenango	9	...	...	...	1	1	4	1	...	...	2
Clinton	12	...	...	...	...	10	2	...	...	...	...
Columbia	6	...	...	...	...	3	1	1	...	...	1
Cortland	3	...	...	1	1	1	...	...	...	...	...
Delaware	14	2	1	3	...	8	...	...	...	...	...
Dutchess	17	3	4	1	2	2	2	...	...	...	3
Erie	81	77	3	...	...	1	...	...	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...
Franklin	3	3	...	...	...	...	...	...	...	...	...
Fulton	11	...	3	...	...	4	2	...	...	...	2
Genesee	12	1	2	...	1	6	2	...	...	...	...
Greene	4	1	...	...	...	2	...	...	...	...	1
Hamilton	1	1	...	...	...	...	...	...	...	...	...
Herkimer	5	4	...	...	...	1	...	...	...	...	...
Jefferson	10	6	1	1	...	2	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...
Livingston	1	...	...	...	1	...	...	...	...	...	...
Madison	6	...	1	...	...	1	...	4	...	...	...
Monroe	86	1	...	3	4	26	13	10	...	...	29
Montgomery	3	2	1	...	...	...	...	...	...	...	...
Nassau	19	8	2	4	4	1	...	...	...	...	...
Niagara	9	...	2	3	...	1	2	1	...	...	...
Oneida	4	...	...	...	1	3	...	...	...	...	...
Onondaga	64	5	10	...	1	31	8	9	...	...	...
Ontario	11	2	1	...	...	2	6	...	...	...	...
Orange	1	...	...	...	...	...	1	...	...	...	...
Orleans	10	3	3	...	...	3	1	...	...	...	...
Oswego	8	3	...	1	...	4	...	...	...	...	...
Otsego	2	...	...	2	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	5	5	...	...	...	...	...	...	...	...	...
Rockland	2	...	...	...	...	1	1	...	...	...	...
St. Lawrence	2	...	...	1	...	...	1	...	...	...	...
Saratoga	3	...	...	...	2	1	...	...	...	...	...
Schenectady	8	...	...	2	1	3	...	...	...	...	2
Schoharie	...	...	...	...	...	...	...	...	...	...	...
Schuyler	6	6	...	...	...	...	...	...	...	...	...
Seneca	5	2	...	...	...	2	1	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...	...	...
Suffolk	18	8	...	1	...	6	2	1	...	...	...
Sullivan	2	1	...	...	...	...	...	1	...	...	...
Tioga	6	5	1	...	...	...	...	...	...	...	...
Tompkins	3	...	...	2	1	...	...	...	...	...	...
Ulster	5	2	...	...	...	...	...	1	...	...	2
Warren	1	...	...	...	...	1	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...
Wayne	19	4	1	3	1	4	3	3	...	...	...
Westchester	21	11	...	...	2	1	2	4	1	...	...
Wyoming	4	4	...	...	...	...	...	...	...	...	...
Yates	1	1	...	...	...	...	...	...	...	...	...

Table 61
FAMILY COURT
Child Protective Proceedings Involving Child Abuse (Boys Only)
Number of Adjournments Between Filing of Petition and Initial Fact-Finding Hearing*

January 1, 1981 through December 31, 1981

Region County	Number of Adjournments											
	Total	None	1	2	3	4	5	6	7	8	9	Over 9
Total New York State	453	88	80	60	59	32	38	40	13	16	7	20
Total New York City	206	8	19	31	24	22	24	26	13	14	6	19
New York	39	2	2	2	4	6	3	...	6	2	...	12
Kings	64	2	3	13	9	5	10	12	2	4	1	3
Queens	38	3	5	2	5	4	6	5	1	5	1	1
Bronx	45	...	3	9	5	4	4	9	4	1	3	3
Richmond	20	1	6	5	1	3	1	...	...	2	1	...
Total Upstate	247	80	61	29	35	10	14	14	...	2	1	1
Albany	9	...	3	...	...	...	5	1	...	...	...	...
Allegany	5	...	1	...	...	...	...	4	...	...	...	...
Broome	5	1	3	1	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	3	...	...	3	...	...	...	...	...	...	...	...
Chemung	6	1	3	1	...	1	...	...	...	...	...	...
Chenango	1	...	...	1	...	...	...	...	...	...	...	...
Clinton	6	6	...	...	...	...	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	1	...	1	...	...	...	...	...	...	...	...	...
Delaware	6	6	...	...	...	...	...	...	...	...	...	...
Dutchess	7	...	4	1	2	...	...	...	...	...	...	...
Erie	33	33	...	...	...	...	...	...	...	...	...	...
Essex	1	1	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	3	2	1	...	...	...	...	...	...	...	...	...
Genesee	5	...	...	...	5	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	3	...	3	...	...	...	...	...	...	...	...	...
Jefferson	3	2	1	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...	...
Madison	1	...	...	...	1	...	...	...	...	...	...	...
Monroe	20	...	2	...	3	2	4	7	...	1	...	1
Montgomery	1	1	...	...	...	...	...	...	...	...	...	...
Nassau	3	...	1	...	...	1	1	...	...	...	...	...
Niagara	7	4	2	1	...	...	...	...	...	...	...	...
Oneida	5	...	1	2	2	...	...	...	...	...	...	...
Onondaga	33	...	3	5	15	4	4	2	...	...	...	...
Ontario	1	1	...	...	...	...	...	...	...	...	...	...
Orange	1	...	...	...	...	1	...	...	...	...	...	...
Orleans	8	3	2	1	2	...	...	...	...	...	...	...
Oswego	1	...	1	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	5	2	2	1	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	2	2	...	...	...	...	...	...	...	...	...	...
Saratoga	1	...	...	1	...	...	...	...	...	...	...	...
Schenectady	3	1	...	1	...	...	...	...	...	1	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	1	1	...	...	...	...	...	...	...	...	...	...
Seneca	5	1	1	1	2	...	...	...	...	...	...	...
Steuben	2	2	...	...	...	...	...	...	...	...	...	...
Suffolk	7	2	4	1	...	...	...	...	...	...	...	...
Sullivan	2	...	2	...	...	...	...	...	...	...	...	...
Tioga	5	...	5	...	...	...	...	...	...	...	...	...
Tompkins	7	...	2	5	...	...	...	...	...	...	...	...
Ulster	2	2	...	...	...	...	...	...	...	...	...	...
Warren	...	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	5	...	...	3	2	...	...	...	...	...	...	...
Westchester	15	6	6	...	1	1	...	...	...	...	1	...
Wyoming	6	...	6	...	...	...	...	...	...	...	...	...
Yates	1	...	1	...	...	...	...	...	...	...	...	...

*This table includes only cases in which there was an initial fact-finding hearing.

Table 62

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Girls Only)

Number of Adjournments Between Filing of Petition and Initial Fact-Finding Hearing*

January 1, 1981 through December 31, 1981

Region County	Number of Adjournments											
	Total	None	1	2	3	4	5	6	7	8	9	Over 9
Total New York State	755	172	140	113	100	49	50	40	27	17	11	36
Total New York City	251	3	23	45	35	30	29	28	20	10	5	23
New York	52	...	1	5	14	5	2	6	5	1	1	12
Kings	82	1	11	27	11	5	9	8	2	1	1	6
Queens	62	1	8	1	5	10	10	9	7	6	1	4
Bronx	49	...	3	10	4	9	8	5	6	1	2	1
Richmond	6	1	...	2	1	1	...	...	...	1	...	...
Total Upstate	504	169	117	68	65	19	21	12	7	7	6	13
Albany	8	...	4	...	3	...	...	1	...	...	...	...
Allegany	6	2	...	...	4	...	...	...	...	...	...	...
Broome	7	2	4	1	...	...	...	...	...	...	...	...
Cattaraugus	2	1	...	1	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	6	...	...	3	3	...	...	...	...	...	...	...
Chemung	17	1	6	4	1	4	1	...	...	...	...	...
Chenango	5	3	1	1	...	...	...	...	...	...	...	...
Clinton	10	10	...	...	...	...	...	...	...	...	...	...
Columbia	5	2	2	...	1	...	...	...	...	...	...	...
Cortland	3	1	2	...	...	...	...	...	...	...	...	...
Delaware	14	9	5	...	...	...	...	...	...	...	...	...
Dutchess	14	4	5	2	1	...	...	...	...	...	2	...
Erie	68	68	...	...	...	...	...	...	...	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	3	3	...	...	...	...	...	...	...	...	...	...
Fulton	9	3	3	2	1	...	...	...	...	...	...	...
Genesee	12	...	4	3	3	...	...	2	...	...	...	...
Greene	2	1	1	...	...	...	...	...	...	...	...	...
Hamilton	1	1	...	...	...	...	...	...	...	...	...	...
Herkimer	5	...	4	1	...	...	...	...	...	...	...	...
Jefferson	9	5	2	2	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	1	1	...	...	...	...	...	...	...	...	...	...
Madison	5	1	...	...	4	...	...	...	...	...	...	...
Monroe	57	3	3	8	9	3	9	5	4	3	2	8
Montgomery	3	2	...	...	...	1	...	...	...	...	...	...
Nassau	19	2	3	6	...	2	...	3	...	2	...	1
Niagara	9	7	1	1	...	...	...	...	...	...	...	...
Oneida	4	...	2	2	...	...	...	...	...	...	...	...
Onondaga	64	2	7	15	15	9	6	1	3	...	2	4
Ontario	11	5	2	2	1	...	1	...	...	...	...	...
Orange	1	1	...	...	...	...	...	...	...	...	...	...
Orleans	10	3	5	...	2	...	...	...	...	...	...	...
Oswego	8	1	7	...	...	...	...	...	...	...	...	...
Otsego	2	...	2	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	5	3	...	2	...	...	...	...	...	...	...	...
Rockland	2	...	1	1	...	...	...	...	...	...	...	...
St. Lawrence	2	...	1	1	...	...	...	...	...	...	...	...
Saratoga	3	...	3	...	...	...	...	...	...	...	...	...
Schenectady	4	2	...	2	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	6	3	3	...	...	...	...	...	...	...	...	...
Seneca	5	2	...	1	2	...	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...	...	...	...
Suffolk	18	4	6	...	6	...	...	...	...	2	...	...
Sullivan	2	1	...	...	...	...	1	...	...	...	...	...
Tioga	6	...	6	...	...	...	...	...	...	...	...	...
Tompkins	3	...	1	2	...	...	...	...	...	...	...	...
Ulster	2	2	...	...	...	...	...	...	...	...	...	...
Warren	1	1	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	19	...	7	4	5	...	3	...	...	...	...	...
Westchester	21	7	10	1	3	...	...	...	...	...	...	...
Wyoming	4	...	4	...	...	...	...	...	...	...	...	...
Yates	1	...	...	...	1	...	...	...	...	...	...	...

*This table includes only cases in which there was an initial fact-finding hearing.

Table 63

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Boys Only)
Length of Time Between Initial Fact-Finding Hearing and Dispositional Hearing

January 1, 1981 through December 31, 1981

Region County	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Number of Cases Without IFH
Total New York State	563	117	5	4	12	110	117	60	38	4	96
Total New York City	282	33	...	...	3	71	68	19	12	...	76
New York	45	8	...	...	2	17	12	...	...	...	6
Kings	101	11	...	...	...	22	16	13	2	...	37
Queens	57	7	...	...	1	12	8	3	7	...	19
Bronx	58	5	...	...	...	14	21	3	2	...	13
Richmond	21	2	...	...	...	6	11	...	1	...	1
Total Upstate	281	84	5	4	9	39	49	41	26	4	20
Albany	9	5	...	...	1	...	1	2	...	...	...
Allegany	5	4	...	...	...	1	...	...	...	...	...
Broome	5	2	...	...	1	...	2	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	3	...	...	...	...	...	...	...	3	...	...
Chemung	6	5	...	...	...	...	1	...	...	...	...
Chenango	2	2	...	...	...	...	...	...	...	...	...
Clinton	7	3	...	...	...	1	...	2	1	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...
Cortland	2	1	...	...	...	...	...	...	...	...	1
Delaware	6	4	...	...	...	1	1	...	...	...	...
Dutchess	10	2	1	...	1	1	1	1	...	...	3
Erie	40	4	2	1	4	4	10	12	3	...	...
Essex	1	...	...	...	...	...	1	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...
Fulton	3	1	...	...	...	...	...	1	...	1	...
Genesee	5	2	...	...	...	...	...	...	3	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...
Herkimer	3	...	...	...	...	...	...	...	...	3	...
Jefferson	4	3	...	...	...	...	...	1	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...
Madison	1	1	...	...	...	...	...	...	...	...	...
Monroe	33	10	1	...	...	1	3	1	4	...	13
Montgomery	1	1	...	...	...	...	...	...	...	...	...
Nassau	3	...	...	...	...	...	2	1	...	...	...
Niagara	8	1	...	...	1	2	...	3	1	...	...
Oneida	5	1	...	...	...	2	1	1	...	...	...
Onondaga	34	16	...	3	...	7	3	2	2	...	1
Ontario	1	...	...	...	...	1	...	...	...	...	...
Orange	1	...	...	...	...	...	...	1	...	...	...
Orleans	8	...	...	...	...	...	8	...	...	...	...
Oswego	1	...	...	...	...	1	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	5	...	...	...	...	3	2	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	2	...	...	...	...	2	...	...	...	...	...
Saratoga	1	1	...	...	...	...	...	...	...	...	...
Schenectady	5	1	1	...	...	2	...	...	...	...	1
Schoharie	...	...	...	...	...	...	...	...	...	...	...
Schuyler	1	...	...	...	...	1	...	...	...	...	...
Seneca	5	3	...	...	...	1	1	...	...	...	...
Steuben	2	1	...	...	...	...	1	...	...	...	...
Suffolk	8	3	...	...	...	2	2	1	...	...	...
Sullivan	2	...	...	...	...	...	...	...	2	...	...
Tioga	5	...	...	...	...	...	4	1	...	...	...
Tompkins	7	...	...	...	...	...	1	...	6	...	...
Ulster	2	1	...	...	...	...	...	1	...	...	...
Warren	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...
Wayne	5	3	...	...	...	...	...	2	...	...	...
Westchester	17	3	...	...	...	3	2	7	1	...	1
Wyoming	6	...	...	...	1	2	2	1	...	...	...
Yates	1	...	...	...	...	1	...	...	...	...	...

Table 64
FAMILY COURT
Child Protective Proceedings Involving Child Abuse (Girls Only)
Length of Time Between Initial Fact-Finding Hearing and Dispositional Hearing

January 1, 1981 through December 31, 1981

Region County	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Number of Cases Without IFH
Total New York State	927	270	10	12	8	203	134	99	38	4	149
Total New York City	357	53	...	...	2	96	73	19	6	2	106
New York	56	10	...	...	...	23	18	1	...	...	4
Kings	135	17	...	...	1	33	19	9	1	2	53
Queens	92	23	...	...	1	22	10	2	4	...	30
Bronx	66	3	...	...	...	15	24	7	...	...	17
Richmond	8	...	...	...	...	3	2	...	1	...	2
Total Upstate	570	217	10	12	6	107	61	80	32	2	43
Albany	8	2	...	2	...	1	...	3	...	...	...
Allegany	7	6	...	...	...	...	...	...	...	...	1
Broome	7	6	...	...	...	...	1	...	...	...	...
Cattaraugus	2	1	...	...	...	1	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	6	...	...	...	...	3	...	...	3	...	...
Chemung	17	16	...	...	...	...	1	...	...	...	...
Chenango	9	7	...	...	...	...	...	...	...	...	2
Clinton	12	8	...	...	...	1	...	3	...	...	...
Columbia	6	4	...	...	...	1	...	...	...	...	1
Cortland	3	...	...	1	...	1	1	...	...	...	...
Delaware	14	9	...	...	...	4	1	...	...	...	...
Dutchess	17	8	...	...	...	1	1	4	...	...	3
Erie	81	15	8	2	3	14	13	20	6	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...
Franklin	3	...	...	...	...	...	3	...	...	...	...
Fulton	11	4	...	...	...	...	...	5	...	...	2
Genesee	12	3	...	...	...	4	...	3	2	...	...
Greene	4	...	...	1	...	...	...	2	...	...	1
Hamilton	1	...	...	...	...	1	...	...	...	...	...
Herkimer	5	...	...	...	...	1	2	...	...	2	...
Jefferson	10	9	...	...	...	1	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...
Livingston	1	1	...	...	...	...	...	...	...	...	...
Madison	6	5	...	...	...	...	...	1	...	...	...
Monroe	86	35	1	1	1	6	4	1	8	...	29
Montgomery	3	2	...	...	...	...	1	...	...	...	...
Nassau	19	...	...	...	...	7	6	6	...	...	...
Niagara	9	4	...	...	...	4	1	...	...	...	...
Oneida	4	1	...	...	...	3	...	...	...	...	...
Onondaga	64	38	...	4	...	16	2	3	1	...	...
Ontario	11	7	...	...	...	2	...	2	...	...	...
Orange	1	1	...	...	...	...	...	...	...	...	...
Orleans	10	...	...	...	...	4	6	...	...	...	...
Oswego	8	2	...	...	...	5	1	...	...	...	...
Otsego	2	...	...	...	...	...	...	2	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	5	...	...	...	...	...	3	2	...	...	...
Rockland	2	...	...	...	...	1	1	...	...	...	...
St. Lawrence	2	1	...	1	...	...	...	...	...	...	...
Saratoga	3	2	...	...	...	...	...	1	...	...	...
Schenectady	8	3	...	...	...	2	...	1	...	...	2
Schoharie	...	...	...	...	...	...	...	...	...	...	...
Schuyler	6	1	...	...	...	5	...	...	...	...	...
Seneca	5	3	...	...	...	2	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...	...	...
Suffolk	18	6	...	...	1	2	2	3	4	...	...
Sullivan	2	...	...	...	...	...	...	1	1	...	...
Tioga	6	...	...	...	...	1	5	...	...	...	...
Tompkins	3	...	...	...	...	1	...	...	2	...	...
Ulster	5	...	...	...	...	...	...	3	...	...	2
Warren	1	...	...	...	...	1	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...
Wayne	19	4	1	...	...	3	2	6	3	...	...
Westchester	21	3	...	...	...	7	2	7	2	...	...
Wyoming	4	...	...	...	1	1	1	1	...	...	...
Yates	1	...	...	...	...	...	1	...	...	...	...

Table 65

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Boys Only)
Number of Adjournments Between Initial Fact-Finding Hearing and Dispositional Hearing*

January 1, 1981 through December 31, 1981

Region County	Number of Adjournments											
	Total	None	1	2	3	4	5	6	7	8	9	Over 9
Total New York State	456	117	128	59	63	31	12	11	13	1	4	17
Total New York City	206	32	50	33	33	22	7	1	10	...	4	14
New York	39	6	7	5	6	2	3	...	...	...	...	10
Kings	64	9	26	9	9	6	2	...	1	...	1	1
Queens	38	12	4	1	6	3	2	...	4	...	3	3
Bronx	45	3	9	7	10	10	...	1	5	...	...	...
Richmond	20	2	4	11	2	1	...	...	...	...	...	...
Total Upstate	250	85	78	26	30	9	5	10	3	1	...	3
Albany	9	...	8	...	...	1	...	...	...	...	...	...
Allegany	5	...	1	...	...	...	...	4	...	...	...	...
Broome	5	1	2	2	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	3	...	3	...	...	...	...	...	...	...	...	...
Chemung	6	5	...	...	1	...	...	...	...	...	...	...
Chenango	1	1	...	...	...	...	...	...	...	...	...	...
Clinton	6	3	3	...	...	...	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	1	1	...	...	...	...	...	...	...	...	...	...
Delaware	6	6	...	...	...	...	...	...	...	...	...	...
Dutchess	7	3	1	...	2	...	...	...	1	...	...	...
Erie	40	...	7	11	3	5	5	5	2	...	...	2
Essex	1	1	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	3	2	...	...	1	...	...	...	...	...	...	...
Genesee	5	3	2	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	3	...	3	...	...	...	...	...	...	...	...	...
Jefferson	3	2	...	1	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...	...
Madison	1	1	...	...	...	...	...	...	...	...	...	...
Monroe	19	11	3	...	3	1	...	...	...	...	...	1
Montgomery	1	1	...	...	...	...	...	...	...	...	...	...
Nassau	3	...	1	1	...	...	...	1	...	...	...	...
Niagara	7	4	1	...	2	...	...	...	...	...	...	...
Oneida	5	2	2	...	1	...	...	...	...	...	...	...
Onondaga	32	12	11	2	7	...	...	...	...	...	...	...
Ontario	1	...	1	...	...	...	...	...	...	...	...	...
Orange	1	...	...	...	1	...	...	...	...	...	...	...
Orleans	8	...	2	3	3	...	...	...	...	...	...	...
Oswego	1	...	1	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	5	1	4	...	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	2	...	2	...	...	...	...	...	...	...	...	...
Saratoga	1	1	...	...	...	...	...	...	...	...	...	...
Schenectady	4	1	3	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	1	...	...	1	...	...	...	...	...	...	...	...
Seneca	5	...	3	...	2	...	...	...	...	...	...	...
Steuben	2	...	1	...	...	1	...	...	...	...	...	...
Suffolk	8	2	2	2	2	...	...	...	...	...	...	...
Sullivan	2	...	1	1	...	...	...	...	...	...	...	...
Tioga	1	...	...	1	...	...	...	...	...	...	...	...
Tompkins	7	6	1	...	...	...	...	...	...	...	...	...
Ulster	2	2	...	...	...	...	...	...	...	...	...	...
Warren	...	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	5	2	3	...	...	...	...	...	...	...	...	...
Westchester	15	9	1	1	2	1	...	...	...	1	...	...
Wyoming	6	1	5	...	...	...	...	...	...	...	...	...
Yates	1	1	...	...	...	...	...	...	...	...	...	...

*This table includes only cases in which there was an initial fact-finding hearing.

Table 66

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Girls Only)

Number of Adjournments Between Initial Fact-Finding Hearing and Dispositional Hearing*

January 1, 1981 through December 31, 1981

Region County	Number of Adjournments											
	Total	None	1	2	3	4	5	6	7	8	9	Over 9
Total New York State	746	265	195	83	74	56	18	8	21	9	...	17
Total New York City	246	53	67	31	27	33	8	1	13	2	...	11
New York	52	10	13	4	3	7	4	...	...	2	...	9
Kings	82	14	29	16	11	8	1	...	1	...	...	2
Queens	57	25	10	5	6	4	1	...	6	...	...	...
Bronx	49	3	13	4	7	14	1	1	6	...	...	...
Richmond	[illegible]	1	2	2	...	...	1	...	...	...	...	...
Total Upstate	500	212	128	52	47	23	10	7	8	7	...	6
Albany	8	...	5	1	1	...	...	...	...	...	...	1
Allegany	6	4	...	...	2	...	...	...	...	...	...	...
Broome	7	5	1	1	...	...	...	...	...	...	...	...
Cattaraugus	2	1	1	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	6	3	3	...	...	...	...	...	...	...	...	...
Chemung	17	16	...	1	...	...	...	...	...	...	...	...
Chenango	5	5	...	...	...	...	...	...	...	...	...	...
Clinton	10	9	1	...	...	...	...	...	...	...	...	...
Columbia	5	4	1	...	...	...	...	...	...	...	...	...
Cortland	3	...	2	1	...	...	...	...	...	...	...	...
Delaware	14	13	...	...	...	1	...	...	...	...	...	...
Dutchess	14	3	3	2	2	...	2	...	...	2	...	...
Erie	80	2	19	17	14	14	2	4	4	3	...	1
Essex	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	3	...	...	3	...	...	...	...	...	...	...	...
Fulton	9	8	1	...	...	...	...	...	...	...	...	...
Genesee	9	4	5	...	...	...	...	...	...	...	...	...
Greene	2	...	1	1	...	...	...	...	...	...	...	...
Hamilton	1	1	...	...	...	...	...	...	...	...	...	...
Herkimer	5	...	3	2	...	...	...	...	...	...	...	...
Jefferson	9	8	...	...	1	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	1	1	...	...	...	...	...	...	...	...	...	...
Madison	5	5	...	...	...	...	...	...	...	...	...	...
Monroe	57	36	10	1	6	1	3	...	...	...	...	...
Montgomery	3	2	...	...	...	1	...	...	...	...	...	...
Nassau	19	3	9	2	2	1	1	...	1	...	...	...
Niagara	8	7	1	...	...	...	...	...	...	...	...	...
Oneida	4	1	3	...	...	...	...	...	...	...	...	...
Onondaga	56	24	17	5	4	1	2	...	2	1	...	...
Ontario	11	6	2	...	2	...	...	1	...	...	...	...
Orange	1	...	...	...	...	1	...	...	...	...	...	...
Orleans	10	...	2	4	4	...	...	...	...	...	...	...
Oswego	8	3	2	3	...	...	...	...	...	...	...	...
Otsego	2	2	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	5	...	5	...	...	...	...	...	...	...	...	...
Rockland	2	...	2	...	...	...	...	...	...	...	...	...
St. Lawrence	2	2	...	...	...	...	...	...	...	...	...	...
Saratoga	2	2	...	...	...	...	...	...	...	...	...	...
Schenectady	6	3	2	...	1	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	6	1	3	2	...	...	...	...	...	...	...	...
Seneca	5	...	3	...	2	...	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...	...	...	...
Suffolk	18	1	6	1	3	1	...	...	1	1	...	4
Sullivan	2	...	...	...	...	1	...	1	...	...	...	...
Tioga	4	...	1	3	...	...	...	...	...	...	...	...
Tompkins	3	3	...	...	...	...	...	...	...	...	...	...
Ulster	3	2	1	...	...	...	...	...	...	...	...	...
Warren	1	...	1	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	16	9	5	...	...	1	...	1	...	...	...	...
Westchester	21	11	5	2	3	...	...	...	...	...	...	...
Wyoming	4	2	2	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...

*This table includes only cases in which there was an initial fact-finding hearing.

Table 67

FAMILY COURT

Court Findings in Child Protective Proceedings Involving Child Abuse, by Sex
Reason for Petition Abuse Only

January 1, 1981 through December 31, 1981

Region County	Boys							Girls						
	Total	Court Findings at Dispositional Hearing				Court Findings Based On		Total	Court Findings at Dispositional Hearing				Court Findings Based On	
		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	462	137	143	22	160	181	281	784	295	202	21	266	321	463
Total New York City	222	75	77	16	54	85	137	292	119	85	15	73	118	174
New York	37	2	21	10	4	10	27	49	5	32	7	5	16	33
Kings	70	38	12	4	16	26	44	108	56	23	6	23	32	76
Queens	42	14	6	2	20	14	28	65	30	8	1	26	34	31
Bronx	54	18	25	...	11	31	23	63	26	21	...	16	35	28
Richmond	19	3	13	...	3	4	15	7	2	1	1	3	1	6
Total Upstate	240	62	66	6	106	96	144	492	176	117	6	193	203	289
Albany	8	8	...	...	...	8	...	8	7	1	...	...	8	...
Allegany	5	...	...	...	5	...	5	5	2	...	...	3	2	3
Broome	5	4	...	...	1	2	3	7	3	...	...	4	2	5
Cattaraugus	...	...	...	...	...	...	...	1	...	...	...	1	...	1
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	3	...	...	...	3	...	3	6	2	1	...	3	2	4
Chemung	5	3	...	...	2	...	5	17	6	5	...	6	...	17
Chenango	2	2	...	...	...	1	1	9	6	...	...	3	2	7
Clinton	5	5	...	...	...	5	...	12	7	3	...	2	11	1
Columbia	...	...	...	...	...	...	...	6	1	3	...	2	3	3
Cortland	...	...	...	...	...	...	...	3	3	...	...	...	...	3
Delaware	6	2	2	...	2	3	3	12	6	1	1	4	4	8
Dutchess	9	4	...	...	5	...	9	17	5	4	...	8	1	16
Erie	37	5	17	...	15	10	27	79	12	38	...	29	26	53
Essex	1	1	...	...	...	...	1	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	3	3	...	...	...	3	...
Fulton	1	1	...	...	...	...	1	1	...	...	...	1	...	1
Genesee	5	...	...	...	5	...	5	12	4	2	...	6	2	10
Greene	...	...	...	...	...	...	...	4	...	2	...	2	2	2
Hamilton	...	...	...	...	...	...	...	1	1	...	...	...	...	1
Herkimer	3	...	...	...	3	...	3	5	...	...	...	5	...	5
Jefferson	4	...	1	...	3	1	3	10	...	2	...	8	2	8
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	1	...	1	...	...	...	1
Madison	1	1	...	...	...	...	1	6	5	...	...	1	...	6
Monroe	25	5	10	...	10	15	10	70	29	12	...	29	41	29
Montgomery	1	...	...	...	1	...	1	3	...	2	...	1	1	2
Nassau	1	...	1	...	...	...	1	1	...	1	...	...	1	...
Niagara	8	3	...	...	5	3	5	9	3	4	...	2	4	5
Oneida	5	...	1	...	4	1	4	4	2	1	...	1	3	1
Onondaga	33	5	18	2	8	25	8	63	24	15	4	20	43	20
Ontario	1	1	...	...	...	1	...	11	6	3	...	2	5	6
Orange	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Orleans	5	...	3	2	...	3	2	6	...	5	1	...	1	5
Oswego	...	...	...	...	...	...	...	6	4	...	...	2	3	3
Otsego	...	...	...	...	...	...	...	2	2	...	...	...	2	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	2	...	...	...	2	...	2	5	...	...	...	5	...	5
Rockland	...	...	...	...	...	...	...	1	1	...	...	...	...	1
St. Lawrence	1	...	...	1	...	...	1	2	1	...	...	1	...	2
Saratoga	1	...	1	...	...	...	1	3	2	...	...	1	...	3
Schenectady	3	...	1	1	1	1	2	6	...	2	...	4	...	6
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	1	...	...	...	1	...	1	6	4	...	...	2	3	3
Seneca	5	...	...	...	5	...	5	5	...	...	...	5	...	5
Steuben	2	...	...	...	2	...	2	...	...	...	...	...	...	...
Suffolk	6	2	1	...	3	2	4	15	8	...	...	7	6	9
Sullivan	2	...	...	...	2	...	2	2	...	1	...	1	1	1
Tioga	5	4	...	...	1	4	1	6	2	...	...	4	2	4
Tompkins	7	1	...	...	6	...	7	3	1	...	...	2	...	3
Ulster	...	...	...	...	...	...	...	2	1	...	...	1	...	2
Warren	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	5	3	2	...	...	4	1	18	10	3	...	5	11	7
Westchester	14	2	5	...	7	5	9	13	2	4	...	7	4	9
Wyoming	6	...	2	...	4	2	4	4	...	1	...	3	1	3
Yates	1	...	1	...	...	...	1	1	1	...	...	...	1	...

Table 68
FAMILY COURT
Court Findings in Child Protective Proceedings Involving Child Abuse, by Sex
Reason for Petition Both Abuse and Neglect

January 1, 1981 through December 31, 1981

Region County	Boys							Girls						
	Total	Court Findings at Dispositional Hearing				Court Findings Based On		Total	Court Findings at Dispositional Hearing				Court Findings Based On	
		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	80	16	31	9	24	25	55	134	27	53	14	40	52	82
Total New York City	50	10	20	9	11	17	33	64	14	20	9	21	21	43
New York	6	...	4	...	2	4	2	7	1	4	...	2	7	...
Kings	26	7	6	9	4	9	17	26	7	7	5	7	9	17
Queens	15	3	8	...	4	2	13	27	4	9	4	10	3	24
Bronx	3	...	2	...	1	2	1	3	1	...	...	2	1	2
Richmond	...	...	...	...	...	...	...	1	1	...	...	...	1	...
Total Upstate	30	6	11	...	13	8	22	70	13	33	5	19	31	39
Albany	1	1	...	...	...	1	...	...	...	...	...	...	...	...
Allegany	...	...	...	...	...	...	...	2	...	...	...	2	...	2
Broome	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	1	...	1	...	...	1	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Clinton	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	2	...	...	...	2	...	2	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	2	1	...	1	...	1	1
Dutchess	1	...	1	...	...	...	1	...	...	...	...	...	...	...
Erie	...	...	...	...	...	...	...	1	1	...	...	...	...	1
Essex	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	2	...	...	...	2	...	2	10	...	4	...	6	...	10
Genesee	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Jefferson	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Monroe	7	2	1	...	4	3	4	16	2	8	3	3	12	4
Montgomery	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	2	...	2	...	...	1	1	16	1	14	1	...	8	8
Niagara	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Oneida	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Onondaga	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Ontario	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Orange	1	...	1	...	...	...	1	1	1	...	...	...	1	...
Orleans	3	...	3	...	...	...	3	4	1	3	...	...	1	3
Oswego	...	...	...	...	...	...	...	1	1	...	...	...	1	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	3	1	...	...	2	...	3	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	1	1	...	...	...	...	1
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Saratoga	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schenectady	2	...	2	...	...	...	2	2	...	2	...	...	...	2
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Suffolk	1	...	...	...	1	...	1	3	...	...	...	3	...	3
Sullivan	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Ulster	2	...	...	...	2	...	2	3	...	...	...	3	1	2
Warren	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Westchester	3	2	1	...	...	3	...	7	4	1	...	2	5	2
Wyoming	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...	...	...

Table 69

FAMILY COURT

Court Findings in Child Protective Proceedings Involving Child Abuse, by Sex
Reason for Petition Neglect Only

January 1, 1981 through December 31, 1981

Region County	Boys							Girls						
	Total	Court Findings at Dispositional Hearing				Court Findings Based On		Total	Court Findings at Dispositional Hearing				Court Findings Based On	
		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	2,269	14	1,321	7	927	784	1,485	2,114	5	1,199	4	906	729	1,385
Total New York City	857	7	581	3	266	342	515	765	1	531	...	233	315	450
New York	222	1	154	1	66	108	114	158	...	119	...	39	75	83
Kings	257	4	204	1	48	89	168	249	1	198	...	50	95	154
Queens	134	...	73	...	61	35	99	139	...	90	...	49	51	88
Bronx	214	1	134	...	79	100	114	188	...	109	...	79	89	99
Richmond	30	1	16	1	12	10	20	31	...	15	...	16	5	26
Total Upstate	1,412	7	740	4	661	442	970	1,349	4	568	4	673	414	935
Albany	20	...	19	...	1	19	1	22	...	20	...	2	19	3
Allegany	8	...	4	...	4	4	4	1	...	...	...	1	...	1
Broome	34	...	12	...	22	15	19	33	...	12	...	21	13	20
Cattaraugus	8	...	2	...	6	...	8	21	...	5	...	16	4	17
Cayuga	4	...	4	...	...	4	...	5	...	5	...	...	5	...
Chautauqua	22	...	14	...	8	8	14	27	...	15	...	12	11	16
Chemung	79	...	65	1	13	...	79	69	...	51	...	18	...	69
Chenango	16	...	11	...	5	...	16	16	...	16	...	...	2	14
Clinton	19	2	14	...	3	19	...	11	...	11	...	...	11	...
Columbia	3	...	1	...	2	...	3	3	...	2	...	1	...	3
Cortland	8	...	7	...	1	5	3	3	...	2	...	1	2	1
Delaware	28	...	18	...	10	13	15	27	...	11	...	16	11	16
Dutchess	18	...	15	...	3	10	8	28	...	17	...	11	8	20
Erie	213	2	105	1	105	81	132	216	...	105	1	110	74	142
Essex	2	...	....	...	2	...	2	3	...	3	...	...	...	3
Franklin	22	...	10	...	12	7	15	17	...	10	...	7	7	10
Fulton	13	...	2	...	11	...	13	9	...	4	...	5	1	8
Genesee	27	...	11	...	16	9	18	29	...	7	...	22	2	27
Greene	14	...	....	...	14	2	12	10	...	...	...	10	6	4
Hamilton	....	...	....	...	...	...	...	...	...	...	...	...	...	...
Herkimer	3	...	1	...	2	2	1	5	...	4	...	1	1	4
Jefferson	18	...	...	...	18	...	18	13	...	...	...	13	2	11
Lewis	1	...	...	...	1	...	1	...	...	...	...	...	...	...
Livingston	11	...	10	...	1	1	10	8	...	5	...	3	1	7
Madison	4	...	4	...	...	1	3	8	...	8	...	...	1	7
Monroe	161	1	69	...	91	64	97	142	...	53	...	89	50	92
Montgomery	2	...	2	...	...	...	2	5	...	3	...	2	...	5
Nassau	64	...	51	...	13	23	41	78	1	66	1	10	39	39
Niagara	42	...	17	...	25	15	27	28	...	5	...	23	4	24
Oneida	7	...	3	...	4	1	6	9	...	3	...	6	2	7
Onondaga	108	1	61	...	46	56	52	103	...	59	1	43	53	50
Ontario	22	...	14	...	8	12	10	18	...	9	...	9	12	6
Orange	7	...	6	...	1	5	2	8	...	8	...	...	7	1
Orleans	6	...	2	...	4	1	5	6	...	6	...	...	2	4
Oswego	8	1	4	...	3	3	5	9	1	5	...	3	2	7
Otsego	11	...	7	...	4	4	7	8	...	6	...	2	6	2
Putnam	....	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	5	...	2	...	3	2	3	1	...	1	...	...	1	...
Rockland	6	...	2	...	4	1	5	14	...	3	...	11	1	13
St. Lawrence	3	...	1	1	1	...	3	5	...	5	...	...	...	5
Saratoga	11	...	5	...	6	1	10	16	...	7	...	9	2	14
Schenectady	40	...	34	...	6	...	40	28	...	23	...	5	...	28
Schoharie	16	...	8	...	8	2	14	10	...	7	...	3	2	8
Schuyler	1	...	...	...	1	...	1	1	...	...	...	1	...	1
Seneca	14	...	3	...	11	3	11	6	...	1	...	5	1	5
Steuben	12	...	4	...	8	2	10	10	...	4	...	6	4	6
Suffolk	94	...	34	1	59	6	88	84	...	21	...	63	7	77
Sullivan	12	...	3	...	9	3	9	11	...	...	...	11	1	10
Tioga	5	...	3	...	2	2	3	6	...	4	...	2	4	2
Tompkins	11	...	7	...	4	3	8	13	...	4	...	9	...	13
Ulster	4	...	1	...	3	1	3	8	...	2	...	6	4	4
Warren	12	...	7	...	5	2	10	2	...	1	1	...	1	1
Washington	2	...	2	...	...	2	...	2	...	2	...	...	2	...
Wayne	31	...	15	...	16	17	14	32	1	16	...	15	17	15
Westchester	85	...	43	...	42	11	74	85	1	30	...	54	9	76
Wyoming	13	...	...	...	13	...	13	12	...	...	...	12	...	12
Yates	2.	...	1	...	1	...	2	5	...	1	...	4	...	5

Table 70

FAMILY COURT

Dispositions of Child Protective Proceedings Involving Child Abuse (Boys Only)*

January 1, 1981 through December 31, 1981

Region County	Total	Withdrawn	Dismissed	Judgment Suspended	Released to Parent or Other Person	Released to Parent or Other Person Under Social Services Department Supervision	Released to Parent or Other Person Under Private Agency Supervision	Probation	Order of Protection	Transferred to a Court With Criminal Jurisdiction	Transferred to Family Court in Another County	Consolidated With another Child Protective Proceeding	Consolidated With Family Offense Proceeding	Consolidated With Support Proceeding	Removal of Child from Home and Placement With Relative	Removal of Child from Home and Placement With Non-Relative	Removal of Child from Home and Placement With Public Social Services Department or Officer	Removal of Child from Home and Placement With Private Institution	Removal of Child from Home and Placement With Other Authorized Agency	Other
Total New York State	563	64	126	4	15	96	6	...	40	1	9	...	...	...	6	1	188	...	...	7
Total New York City	282	29	59	...	6	59	6	...	15	...	8	...	...	...	...	1	93	...	...	6
New York	45	3	4	...	...	11	...	...	4	...	4	...	...	...	...	...	19	...	...	...
Kings	101	21	27	...	3	3	1	...	7	...	...	...	...	...	...	...	33	...	...	6
Queens	57	...	18	...	3	19	3	...	...	...	3	...	...	...	...	1	10	...	...	...
Bronx	58	5	7	...	...	17	2	...	...	...	1	...	...	...	...	...	26	...	...	...
Richmond	21	...	3	...	...	9	...	...	4	...	...	...	...	...	...	...	5	...	...	...
Total Upstate	281	35	67	4	9	37	...	...	25	1	1	...	...	...	6	...	95	...	...	1
Albany	9	...	3	...	...	1	...	...	...	...	1	...	...	...	...	...	4	...	...	...
Allegany	5	4	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Broome	5	...	...	2	...	1	...	...	...	...	...	...	...	...	...	...	2	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	3	...	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	6	1	1	...	...	2	...	...	...	...	...	...	...	...	1	...	...	...	...	1
Chenango	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	2	...	...	...
Clinton	7	...	3	...	...	1	...	...	...	...	...	...	...	...	...	...	3	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	2	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	6	...	...	2	1	1	...	...	1	...	...	...	...	...	...	...	1	...	...	...
Dutchess	10	2	1	...	...	4	...	...	...	...	...	...	...	...	...	...	3	...	...	...
Erie	40	2	14	...	...	2	...	...	5	...	...	...	...	...	...	...	17	...	...	...
Essex	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	3	...	2	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Genesee	5	2	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	3	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Jefferson	4	1	1	...	...	1	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Madison	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Monroe	33	2	16	...	...	8	...	...	...	...	...	...	...	...	1	...	6	...	...	...
Montgomery	1	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	3	...	...	...
Niagara	8	...	2	...	...	...	...	...	...	...	...	...	...	...	...	...	6	...	...	...
Oneida	5	...	4	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Onondaga	34	5	3	...	1	3	...	...	3	...	...	...	...	...	...	...	19	...	...	...
Ontario	1	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Orange	1	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Orleans	8	...	...	...	...	...	...	...	2	...	...	...	...	...	...	...	6	...	...	...
Oswego	1	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	5	...	...	...	...	2	...	...	2	...	...	...	...	...	1	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	2	...	...	...	...	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Saratoga	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Schenectady	5	1	...	...	...	1	...	...	...	...	...	...	...	...	...	...	3	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	5	...	3	...	...	...	...	...	...	...	...	...	...	...	...	...	2	...	...	...
Steuben	2	1	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Suffolk	8	5	1	...	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Sullivan	2	...	1	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tioga	5	...	...	...	...	...	...	...	...	...	...	...	...	...	2	...	3	...	...	...
Tompkins	7	...	...	...	...	...	...	...	6	...	...	...	...	...	...	...	1	...	...	...
Ulster	2	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Warren	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	5	...	...	...	1	...	...	...	4	...	...	...	...	...	...	...	...	...	...	...
Westchester	17	4	3	...	4	1	...	...	1	...	...	...	...	...	1	...	3	...	...	...
Wyoming	6	...	...	...	...	2	...	...	...	1	...	...	...	...	...	...	3	...	...	...
Yates	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...

*For the purpose of compiling this table, only one disposition per case was considered. If more than one disposition was reported for a case, the one deemed to be most significant was used.

Table 71
FAMILY COURT
Dispositions of Child Protective Proceedings Involving Child Abuse (Girls Only)*
January 1, 1981 through December 31, 1981

Region County	Total	Withdrawn	Dismissed	Judgment Suspended	Released to Parent or Other Person	Released to Parent or Other Person Under Social Services Department Supervision	Released to Parent or Other Person Under Private Agency Supervision	Probation	Order of Protection	Transferred to a Court With Criminal Jurisdiction	Transferred to Family Court in Another County	Consolidated With Another Child Protective Proceeding	Consolidated With Family Offense Proceeding	Consolidated With Support Proceeding	Removal of Child from Home and Placement With Relative	Removal of Child from Home and Placement With Non-Relative	Removal of Child from Home and Placement With Public Social Services Department or Officer	Removal of Child from Home and Placement With Private Institution	Removal of Child from Home and Placement With Other Authorized Agency	Other
Total New York State	927	139	177	9	41	123	13	2	101	3	5	2	...	...	7	1	293	...	...	11
Total New York City	357	64	66	5	23	45	13	...	23	...	2	...	...	...	3	...	106	...	...	7
New York	56	7	1	3	2	7	...	...	7	...	2	...	...	...	2	...	25	...	...	...
Kings	135	41	20	2	3	10	3	...	14	...	...	...	...	...	...	...	35	...	...	7
Queens	92	10	31	...	17	9	6	...	2	...	...	...	...	...	1	...	16	...	...	...
Bronx	66	6	11	...	...	17	4	...	...	...	...	...	...	...	...	...	28	...	...	...
Richmond	8	...	3	...	1	2	...	...	...	...	...	...	...	...	...	...	2	...	...	...
Total Upstate	570	75	111	4	18	78	...	2	78	3	3	2	...	...	4	1	187	...	...	4
Albany	8	...	3	...	...	1	...	...	...	...	...	...	...	...	...	...	4	...	...	...
Allegany	7	3	...	...	1	2	...	...	...	...	...	...	...	...	...	...	...	...	...	1
Broome	7	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	6	...	...	...
Cattaraugus	2	...	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	6	...	3	...	...	...	...	...	...	...	...	...	...	...	...	...	3	...	...	...
Chemung	17	2	1	...	...	8	...	...	...	...	...	2	...	...	1	...	3	...	...	...
Chenango	9	2	1	...	...	...	...	...	2	...	...	...	...	...	...	...	4	...	...	...
Clinton	12	3	3	...	...	...	...	...	...	...	...	...	...	...	...	...	6	...	...	...
Columbia	6	1	2	...	...	...	...	...	...	...	...	...	...	...	...	...	3	...	...	...
Cortland	3	...	...	...	...	2	...	1	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	14	...	...	3	...	4	...	...	2	...	...	...	...	...	1	...	4	...	...	...
Dutchess	17	6	2	...	...	2	...	...	...	...	...	...	...	...	...	...	7	...	...	...
Erie	81	4	22	...	...	6	...	...	28	...	2	...	...	...	...	...	19	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	3	...	...	...
Fulton	11	2	5	...	...	...	...	...	...	...	...	...	...	...	...	...	4	...	...	...
Genesee	12	...	6	...	1	...	...	...	1	...	...	...	...	...	...	...	4	...	...	...
Greene	4	...	1	...	...	1	...	...	...	...	1	...	...	...	...	...	1	...	...	...
Hamilton	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Herkimer	5	4	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Jefferson	10	2	...	...	...	3	...	...	...	...	...	...	...	...	...	...	5	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Madison	6	1	...	...	...	...	...	...	1	...	...	...	...	...	...	...	4	...	...	...
Monroe	86	10	27	...	2	15	...	...	7	2	...	...	...	...	...	...	23	...	...	...
Montgomery	3	1	...	...	...	1	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Nassau	19	...	...	...	...	1	...	...	10	...	...	...	...	...	...	...	5	...	...	3
Niagara	9	...	...	...	...	2	...	...	...	...	...	...	...	...	...	...	7	...	...	...
Oneida	4	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	3	...	...	...
Onondaga	64	11	9	...	4	3	...	...	7	...	...	...	...	...	...	...	30	...	...	...
Ontario	11	...	3	...	1	4	...	...	2	...	...	...	...	...	...	...	1	...	...	...
Orange	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Orleans	10	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	9	...	...	...
Oswego	8	1	1	...	1	1	...	...	1	...	...	...	...	...	...	...	3	...	...	...
Otsego	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	2	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	5	...	2	...	...	...	...	...	3	...	...	...	...	...	...	...	...	...	...	...
Rockland	2	...	...	...	...	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	2	1	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Saratoga	3	...	...	...	...	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schenectady	8	3	...	...	...	2	...	...	...	...	...	...	...	...	...	1	2	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	6	2	...	...	1	...	...	...	...	...	...	...	...	...	...	...	3	...	...	...
Seneca	5	...	4	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Suffolk	18	9	...	...	...	5	...	...	...	...	...	...	...	...	1	...	3	...	...	...
Sullivan	2	...	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tioga	6	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	4	...	...	...
Tompkins	3	...	...	...	...	...	...	1	2	...	...	...	...	...	...	...	...	...	...	...
Ulster	5	1	3	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Warren	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	19	...	5	1	1	1	...	...	9	...	...	...	...	...	...	...	2	...	...	...
Westchester	21	4	5	...	4	4	...	...	1	...	...	...	...	...	...	...	3	...	...	...
Wyoming	4	...	...	...	...	1	...	...	...	1	...	...	...	...	...	...	2	...	...	...
Yates	1	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...

*For the purpose of compiling this table, only one disposition per case was considered. If more than one disposition was reported for a case, the one deemed to be most significant was used.

Table 72
FAMILY COURT
Child Protective Petitions Involving Child Abuse, by Sex
Disposed of Between January 1, 1981 and December 31, 1981

Region County	Boys			Girls		
	Total	Petition Filed Prior to January 1, 1981	Petition Filed on or After January 1, 1981	Total	Petition Filed Prior to January 1, 1981	Petition Filed on or After January 1, 1981
Total New York State	563	29	534	927	36	891
Total New York City	282	13	269	357	14	343
New York	45	...	45	56	...	56
Kings	101	5	96	135	4	131
Queens	57	5	52	92	6	86
Bronx	58	3	55	66	4	62
Richmond	21	...	21	8	...	8
Total Upstate	281	16	265	570	22	548
Albany	9	...	9	8	...	8
Allegany	5	...	5	7	...	7
Broome	5	...	5	7	...	7
Cattaraugus	...	...	...	2	...	2
Cayuga	...	...	...	...	...	...
Chautauqua	3	...	3	6	...	6
Chemung	6	...	6	17	...	17
Chenango	2	...	2	9	...	9
Clinton	7	...	7	12	...	12
Columbia	...	...	...	6	...	6
Cortland	2	...	2	3	...	3
Delaware	6	...	6	14	...	14
Dutchess	10	...	10	17	...	17
Erie	40	...	40	81	...	81
Essex	1	...	1	...	...	...
Franklin	...	...	...	3	...	3
Fulton	3	1	2	11	2	9
Genesee	5	2	3	12	1	11
Greene	...	...	...	4	...	4
Hamilton	...	...	...	1	...	1
Herkimer	3	3	...	5	2	3
Jefferson	4	...	4	10	...	10
Lewis	...	...	...	...	...	...
Livingston	...	...	...	1	...	1
Madison	1	...	1	6	...	6
Monroe	33	8	25	86	9	77
Montgomery	1	...	1	3	...	3
Nassau	3	...	3	19	...	19
Niagara	8	...	8	9	...	9
Oneida	5	...	5	4	...	4
Onondaga	34	...	34	64	...	64
Ontario	1	...	11	11	...	11
Orange	1	...	1	1	...	1
Orleans	8	...	8	10	...	10
Oswego	1	...	1	8	...	8
Otsego	...	...	...	2	...	2
Putnam	...	...	...	...	...	...
Rensselaer	5	...	5	5	...	5
Rockland	...	...	...	2	...	2
St. Lawrence	2	...	2	2	...	2
Saratoga	1	...	1	3	...	3
Schenectady	5	...	5	8	...	8
Schoharie	...	...	...	...	...	...
Schuyler	1	...	1	6	...	6
Seneca	5	...	5	5	...	5
Steuben	2	...	2	...	...	...
Suffolk	8	...	8	18	4	14
Sullivan	2	1	1	2	1	1
Tioga	5	...	5	6	...	6
Tompkins	7	...	7	3	...	3
Ulster	2	...	2	5	1	4
Warren	...	...	...	1	...	1
Washington	...	...	...	...	...	...
Wayne	5	...	5	19	2	17
Westchester	17	1	16	21	...	21
Wyoming	6	...	6	4	...	4
Yates	1	...	1	1	...	1

Table 73

FAMILY COURT

Child Abuse Part Statistics, by Sex*

January 1, 1981 through December 31, 1981

Region County	Boys						Girls					
			Courts Having Child Abuse Part			Courts Not Having Child Abuse Part			Courts Having Child Abuse Part			Courts Not Having Child Abuse Part
	Total	Number Disposed Not Indicating Whether Court Has a Child Abuse Part	Number of Cases Disposed in Child Abuse Part	Number of Cases Disposed in Other Than Child Abuse Part	Number Not Indicating Where Disposed	Number of cases Disposed	Total	Number Disposed Not Indicating Whether Court Has a Child Abuse Part	Number of Cases Disposed in Child Abuse Part	Number of Cases Disposed in Other Than Child Abuse Part	Number Not Indicating Where Disposed	Number of Cases Disposed
Total New York State	542	2	290	27	...	223	918	6	476	34	...	402
Total New York City	272	2	218	22	...	30	356	1	307	31	...	17
New York	43	...	42	...	...	1	56	...	53	...	...	3
Kings	96	1	68	22	...	5	134	1	101	30	...	2
Queens	57	...	52	...	...	5	92	...	87	1	...	4
Bronx	57	1	56	...	...	...	66	...	66	...	...	...
Richmond	19	...	...	...	...	19	8	...	...	...	...	8
Total Upstate	270	...	72	5	...	193	562	5	169	3	...	385
Albany	9	...	...	...	...	9	8	1	...	...	...	7
Allegany	5	...	...	...	...	5	7	...	...	...	...	7
Broome	5	...	...	...	...	5	7	...	...	...	...	7
Cattaraugus	...	...	...	...	...	...	2	1	...	...	...	1
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	3	...	...	...	...	3	6	...	...	...	...	6
Chemung	5	...	...	...	...	5	17	...	...	...	...	17
Chenango	2	...	...	...	...	2	9	...	...	...	...	9
Clinton	5	...	...	...	...	5	12	...	...	...	...	12
Columbia	...	...	...	...	...	...	6	...	1	...	...	5
Cortland	2	...	1	...	...	1	3	...	...	...	...	3
Delaware	6	...	...	...	...	6	14	...	...	...	...	14
Dutchess	10	...	...	...	...	10	17	...	...	...	...	17
Erie	37	...	32	5	...	...	80	...	78	2	...	...
Essex	1	...	...	...	...	1	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	3	...	...	...	...	3
Fulton	3	...	...	...	...	3	11	1	...	...	...	10
Genesee	5	...	...	...	...	5	12	...	...	...	...	12
Greene	...	...	...	...	...	...	4	...	...	...	...	4
Hamilton	...	...	...	...	...	...	1	...	...	...	...	1
Herkimer	3	...	...	...	...	3	5	...	...	...	...	5
Jefferson	4	...	...	...	...	4	10	...	...	...	...	10
Lewis	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	1	...	...	...	...	1
Madison	1	...	...	...	...	1	6	...	...	...	...	6
Monroe	32	...	1	...	...	31	86	1	3	...	...	82
Montgomery	1	...	...	...	...	1	3	...	...	...	...	3
Nassau	3	...	...	...	...	3	17	...	2	...	...	15
Niagara	8	...	...	...	...	8	9	...	...	...	...	9
Oneida	5	...	...	...	...	5	4	...	...	...	...	4
Onondaga	33	...	33	...	...	...	63	...	63	...	...	...
Ontario	1	...	...	...	...	1	11	...	4	...	...	7
Orange	1	...	...	...	...	1	1	...	...	...	...	1
Orleans	8	...	...	...	...	8	10	...	...	1	...	9
Oswego	...	...	...	...	...	...	7	...	...	...	...	7
Otsego	...	...	...	...	...	...	2	...	...	...	...	2
Putnam	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	5	...	...	...	...	5	5	...	...	...	...	5
Rockland	...	...	...	...	...	...	2	...	...	...	...	2
St. Lawrence	1	...	...	...	...	1	2	...	...	...	...	2
Saratoga	1	...	...	...	...	1	3	...	...	...	...	3
Schenectady	5	...	...	...	...	5	8	...	...	...	...	8
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	1	...	...	...	...	1	6	...	...	...	...	6
Seneca	5	...	...	...	...	5	5	...	...	...	...	5
Steuben	2	...	...	...	...	2	...	...	...	...	...	...
Suffolk	7	...	5	...	...	2	18	...	15	...	...	3
Sullivan	2	...	...	...	...	2	2	...	...	...	...	2
Tioga	5	...	...	...	...	5	6	...	...	...	...	6
Tompkins	7	...	...	...	...	7	3	...	1	...	...	2
Ulster	2	...	...	...	...	2	5	...	1	...	...	4
Warren	...	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	5	...	...	...	...	5	18	...	...	...	...	18
Westchester	17	...	...	...	...	17	20	1	1	...	...	18
Wyoming	6	...	...	...	...	6	4	...	...	...	...	4
Yates	1	...	...	...	...	1	1	...	...	...	...	1

*This table includes only cases in which the reason for petition was abuse or both abuse and neglect regardless of court finding.

Table 74

FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Boys Only)*
Detention by Region and County

January 1, 1981 through December 31, 1981

Region County	Total*	Not Detained	Detained		Length of Detention After Petition								Over 730 Days
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More	
Total New York State	5,371	4,420	9	948	108	107	87	115	381	118	29	3	...
Total New York City	1,551	1,075	...	476	46	38	38	48	196	82	25	3	...
New York	207	167	...	40	6	2	3	5	17	5	2	...	...
Kings	655	430	...	225	27	24	22	23	94	24	10	1	...
Queens	310	213	...	97	3	3	6	10	47	22	5	1	...
Bronx	335	231	...	104	8	8	7	10	34	30	6	1	...
Richmond	44	34	...	10	2	1	...	...	4	1	2	...	...
Total Upstate	3,820	3.345	9	472	62	69	49	67	185	36	4	...	...
Albany	155	111	...	44	1	5	8	9	17	4	...	...	.
Allegany	10	10	...	...	...	...	...	...	...	...	...	...	...
Broome	55	52	...	3	2	...	1	...	...	...	...	...	...
Cattaraugus	19	19	...	...	...	...	...	...	...	...	...	...	...
Cayuga	24	23	...	1	...	...	...	...	1	...	...	...	...
Chautauqua	54	53	...	1	...	...	...	...	1	...	...	...	...
Chemung	47	42	...	5	...	...	...	...	4	1	...	...	...
Chenango	13	12	...	1	...	1	...	...	...	...	...	...	...
Clinton	19	17	...	2	...	...	...	1	1	...	...	...	...
Columbia	20	19	...	1	...	...	...	...	1	...	...	...	...
Cortland	17	12	1	5	3	...	...	...	2	...	...	...	...
Delaware	13	13	...	...	...	...	...	...	...	...	...	...	...
Dutchess	133	120	...	13	2	3	1	2	5	...	...	...	....
Erie	415	342	...	73	10	10	7	8	28	10	...	...	...
Essex	8	6	...	2	...	...	...	...	2	...	...	...	...
Franklin	10	10	...	...	...	...	...	...	...	...	...	...	...
Fulton	37	30	...	7	3	1	...	1	2	...	...	...	...
Genesee	27	27	...	...	...	...	...	...	...	...	...	...	...
Greene	18	18	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	32	32	...	...	...	...	...	...	...	...	...	...	...
Jefferson	65	65	...	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	17	17	...	...	...	...	...	...	...	...	...	...	...
Madison	49	47	...	2	1	...	...	...	1	...	...	...	...
Monroe	277	207	...	70	6	5	6	8	39	5	1	...	...
Montgomery	35	31	...	4	2	2	...	...	...	...	...	...	...
Nassau	220	215	...	5	2	1	1	...	1	...	...	...	...
Niagara	76	66	...	10	3	2	1	1	3	...	...	...	...
Oneida	53	49	...	4	1	2	...	1	...	...	...	...	...
Onondaga	178	126	2	52	3	5	4	7	26	7	...	...	...
Ontario	39	32	2	6	3	1	1	...	1	...	...	...	...
Orange	77	75	...	2	...	...	...	1	...	1	...	...	...
Orleans	3	2	...	1	...	1	...	...	...	...	...	...	...
Oswego	24	23	...	1	1	...	...	...	...	...	...	...	...
Otsego	2	2	...	...	...	...	...	...	...	...	...	...	...
Putnam	23	20	...	3	...	...	...	2	1	...	...	...	...
Rensselaer	40	36	...	4	1	1	2	...	...	...	...	...	...
Rockland	25	19	...	6	...	...	...	1	5	...	...	...	...
St. Lawrence	13	13	...	...	...	...	...	...	...	...	...	...	...
Saratoga	33	32	...	1	...	1	...	...	...	...	...	...	...
Schenectady	59	53	...	6	...	2	1	1	2	...	...	...	...
Schoharie	4	4	...	...	...	...	...	...	...	...	...	...	...
Schuyler	7	5	...	2	...	1	...	1	...	...	...	...	...
Seneca	14	12	1	1	1	...	...	...	...	...	...	...	...
Steuben	40	34	...	6	2	1	...	2	1	...	...	...	...
Suffolk	812	729	...	83	8	17	13	16	25	3	1	...	...
Sullivan	13	13	...	...	...	...	...	...	...	...	...	...	...
Tioga	21	20	...	1	...	1	...	...	...	...	...	...	...
Tompkins	25	18	...	7	2	...	...	3	2	...	...	...	...
Ulster	59	59	..	...	...	...	...	...	...	...	...	...	...
Warren	18	13	...	5	1	...	1	1	2	...	...	...	...
Washington	52	51	1	...	...	...	...	...	...	...	...	...	...
Wayne	40	37	...	3	...	2	...	...	1	...	...	...	...
Westchester	266	239	2	27	3	4	1	1	11	5	2	...	...
Wyoming	13	11	...	2	1	...	1	...	...	...	...	...	...
Yates	2	2	...	...	...	...	...	...	...	...	...	...	...

*This table is based on the following reported original petitions disposed of (Boys only): 4,944 PINS petitions, plus 427 PINS petitions substituted for Juvenile Delinquency petitions (39 in New York City and 388 outside New York City), regardless of court finding.

Figures in columns 2, 3 and 4 exceed Total because some proceedings are included in both columns 3 and 4. There were 6 such proceedings statewide.

Table 75

FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Girls Only)*
Detention by Region and County

January 1, 1981 through December 31, 1981

Region County	Total*	Not Detained	Detained		Length of Detention After Petition							
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More
Total New York State	4,578	3,658	5	919	118	106	92	143	333	104	21	2
Total New York City	1,397	959	1	438	42	39	36	88	144	68	19	2
New York	184	155	...	29	2	3	1	8	11	3	1	...
Kings	557	364	...	193	21	20	20	43	61	24	4	...
Queens	300	204	1	96	8	6	7	18	38	12	6	1
Bronx	312	209	...	103	9	6	6	17	29	28	7	1
Richmond	44	27	...	17	2	4	2	2	5	1	1	...
Total Upstate	3,181	2,699	4	481	76	67	56	55	189	36	2	...
Albany	142	97	...	45	5	5	5	13	16	1	...	...
Allegany	7	6	...	1	1	...	...	...	...	...	...	...
Broome	89	83	...	6	1	...	1	2	1	1	...	...
Cattaraugus	21	21	...	...	...	...	...	...	...	...	...	...
Cayuga	20	19	...	1	...	...	...	1	...	...	...	...
Chautauqua	37	36	...	1	...	...	...	...	1	...	...	...
Chemung	36	31	...	5	...	...	...	...	5	...	...	...
Chenango	14	13	1	...	...	...	...	...	...	...	...	...
Clinton	21	21	...	...	...	...	...	...	...	...	...	...
Columbia	19	19	...	...	...	...	...	...	...	...	...	...
Cortland	18	10	1	8	1	1	3	3	...	...	...	...
Delaware	6	5	...	1	...	...	...	...	...	1	...	...
Dutchess	78	71	...	7	2	1	...	2	2	...	...	...
Erie	413	333	...	80	7	7	3	5	49	7	2	...
Essex	11	9	...	2	...	1	...	...	1	...	...	...
Franklin	11	9	...	2	...	...	...	2	...	...	...	...
Fulton	33	29	...	4	...	4	...	...	...	...	...	...
Genesee	15	15	...	...	...	...	...	...	...	...	...	...
Greene	15	15	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	19	19	...	...	...	...	...	...	...	...	...	...
Jefferson	51	51	...	...	...	...	...	...	...	...	...	...
Lewis	2	2	...	...	...	...	...	...	...	...	...	...
Livingston	22	22	...	...	...	...	...	...	...	...	...	...
Madison	39	38	...	1	...	...	...	...	1	...	...	...
Monroe	332	237	...	95	10	13	16	7	41	8	...	...
Montgomery	23	22	...	1	...	...	1	...	...	...	...	...
Nassau	199	197	...	2	1	1	...	...	...	...	...	...
Niagara	50	41	...	9	6	2	1	...	...	...	...	...
Oneida	36	35	...	1	...	...	1	...	...	...	...	...
Onondaga	175	115	...	60	7	6	6	4	29	8	...	...
Ontario	21	17	1	4	3	...	...	...	1	...	...	...
Orange	84	78	...	6	...	...	...	...	5	1	...	...
Orleans	7	7	...	...	...	...	...	...	...	...	...	...
Oswego	30	18	...	12	8	2	2	...	...	...	...	...
Otsego	11	9	...	2	...	...	...	1	1	...	...	...
Putnam	9	7	...	2	...	...	...	...	2	...	...	...
Rensselaer	30	26	...	4	...	1	...	2	1	...	...	...
Rockland	31	22	...	9	...	1	1	1	3	3	...	...
St. Lawrence	11	11	...	...	...	...	...	...	...	...	...	...
Saratoga	25	19	...	6	1	3	1	...	1	...	...	...
Schenectady	42	37	...	5	1	2	...	...	1	1	...	...
Schoharie	7	5	...	2	...	1	...	...	1	...	...	...
Schuyler	1	1	...	...	...	...	...	...	...	...	...	...
Seneca	9	7	...	2	...	1	1	...	...	...	...	...
Steuben	19	12	...	7	4	3	...	...	...	...	...	...
Suffolk	502	457	...	45	10	7	9	5	14	...	...	...
Sullivan	16	16	...	...	...	...	...	...	...	...	...	...
Tioga	7	6	...	1	...	...	...	1	...	...	...	...
Tompkins	21	17	...	4	1	1	2	...	...	...	...	...
Ulster	43	43	...	...	...	...	...	...	...	...	...	...
Warren	15	13	...	2	...	...	...	1	1	...	...	...
Washington	16	13	...	3	2	...	1	...	...	...	...	...
Wayne	18	15	1	3	1	1	...	...	1	...	...	...
Westchester	245	216	...	29	3	3	2	5	11	5	...	...
Wyoming	5	4	...	1	1	...	...	...	...	...	...	...
Yates	2	2	...	...	...	...	...	...	...	...	...	...

*This table is based on the following reported original petitions disposed of (Girls only): 4,513 PINS petitions, plus 65 PINS petitions substituted for Juvenile Delinquency petitions (8 in New York City and 57 outside New York City), regardless of court finding.

Figures in columns 2, 3 and 4 exceed Total because some proceedings are included in both columns 3 and 4. There were 4 such proceedings statewide.

Table 76
FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Boys Only)*
Nature of Dispositions by Region and County
January 1, 1981 through December 31, 1981

Region County	Total Dispositions	No Adjudication											Adjudication							
																	Placement			
		Dismissed For Failure of Proof at Fact-Finding Hearing	Other Dismissal at Fact-Finding Hearing	Dismissed at Dispositional Hearing	Dismissed For Failure to Prosecute	Dismissed Without Prejudice	Dismissed In Furtherance of Justice (ACD)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged to Mental Hygiene Institution	Discharged to Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division For Youth	Other Placement
Total New York State	5.371	84	...	74	380	281	814	348	934	6	81	...	1	23	209	1.359	17	594	124	42
Total New York City	1.551	12	...	24	251	158	185	172	464	1	1	...	1	2	5	87	1	150	21	16
New York	207	3	...	5	30	18	20	24	84	1	...	...	...	...	1	6	...	13	2	...
Kings	655	1	...	6	112	61	88	74	136	...	...	...	...	1	2	62	1	81	14	16
Queens	310	7	...	5	59	54	24	19	96	...	1	...	1	1	...	13	...	26	4	...
Bronx	335	...	...	3	44	25	37	50	144	...	...	...	...	...	...	4	...	27	1	...
Richmond	44	1	...	5	6	...	16	5	4	...	...	...	...	...	2	2	...	3	...	...
Total Upstate	3.820	72	...	50	129	123	629	176	470	5	80	...	...	21	204	1.272	16	444	103	26
Albany	155	6	...	15	4	1	30	2	12	...	16	...	...	5	7	38	...	18	1	...
Allegany	10	...	...	...	...	...	...	...	2	...	...	...	...	...	1	5	1	...	1	...
Broome	55	...	...	1	2	...	1	7	1	...	...	...	...	...	3	18	...	18	3	1
Cattaraugus	19	...	...	...	...	2	5	...	2	...	...	...	...	...	...	6	...	4	...	...
Cayuga	24	...	...	...	...	...	3	3	...	...	...	...	...	...	1	7	...	4	6	...
Chautauqua	54	3	...	...	5	2	9	3	2	...	1	...	...	...	...	22	...	7	...	...
Chemung	47	...	...	...	...	...	...	1	1	...	1	...	...	...	6	23	...	13	2	...
Chenango	13	...	...	...	...	...	1	...	...	...	...	...	...	...	1	7	...	3	...	1
Clinton	19	...	...	...	...	...	3	...	2	...	...	...	...	...	1	8	...	3	2	...
Columbia	20	...	...	...	...	...	...	...	1	...	...	...	...	1	...	15	1	1	1	...
Cortland	17	...	...	...	...	...	...	...	...	...	...	...	...	...	...	10	2	1	4	...
Delaware	13	...	...	...	...	...	3	...	3	...	...	...	...	...	...	6	...	1	...	...
Dutchess	133	...	...	1	1	...	29	2	20	...	8	...	...	...	4	44	...	20	3	1
Erie	415	25	...	13	40	30	78	12	24	...	...	...	...	...	7	101	...	43	25	17
Essex	8	...	...	...	...	1	...	...	1	...	...	...	...	...	...	4	...	1	1	...
Franklin	10	...	...	...	...	...	1	2	1	...	...	...	...	...	1	3	...	2	...	...
Fulton	37	...	...	...	...	...	15	...	2	...	...	...	...	...	...	9	...	9	2	...
Genesee	27	...	...	...	...	...	7	...	2	...	...	...	...	...	...	12	...	5	1	...
Greene	18	...	...	...	1	2	1	...	1	...	1	...	...	...	2	7	...	1	1	1
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	32	1	...	2	...	9	2	1	7	...	...	...	...	...	...	3	1	4	2	...
Jefferson	65	2	...	...	2	1	2	1	5	...	...	...	...	7	2	40	...	2	1	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	17	...	...	...	...	1	4	1	2	...	...	...	...	...	...	6	...	1	2	...
Madison	49	...	...	1	...	...	19	...	7	...	...	...	...	...	4	6	1	11	...	...
Monroe	277	...	...	...	...	6	88	38	21	...	2	...	...	...	36	56	...	30	...	...
Montgomery	35	...	...	...	...	1	7	4	4	...	2	...	...	...	4	9	...	3	...	1
Nassau	220	1	...	...	8	4	15	[illegible]	[illegible]	...	9	...	...	...	22	97	...	13	1	1
Niagara	76	2	...	...	6	...	5	3	8	...	...	...	...	2	4	24	2	15	5	...
Oneida	53	3	...	...	...	1	...	3	9	...	...	...	...	...	...	20	...	4	13	...
Onondaga	178	2	...	...	6	5	43	30	16	...	...	...	...	...	8	32	...	33	3	...
Ontario	39	1	...	2	3	...	2	...	...	...	2	...	...	...	...	15	...	9	5	...
Orange	77	...	...	...	2	...	2	8	2	1	...	...	...	...	...	40	...	20	2	...
Orleans	3	...	...	...	...	...	...	1	...	...	...	...	...	...	...	1	...	...	1	...
Oswego	24	...	...	...	...	...	...	...	1	...	...	...	...	...	4	11	...	8	...	...
Otsego	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	2	...	...
Putnam	23	...	...	1	1	...	2	2	3	...	1	...	...	...	...	13	...	...	...	...
Rensselaer	40	2	...	...	...	3	14	1	4	1	1	...	...	...	4	7	...	3	...	...
Rockland	25	...	...	1	1	...	...	...	6	...	...	...	...	1	...	11	...	5	...	...
St. Lawrence	13	1	...	...	...	...	...	1	...	...	...	...	...	...	1	5	...	5	...	...
Saratoga	33	...	...	...	...	1	17	1	1	...	...	...	...	...	...	6	...	7	...	...
Schenectady	59	...	...	...	1	1	4	1	6	...	8	...	...	...	...	28	...	9	1	...
Schoharie	4	...	...	...	...	...	1	...	1	...	...	...	...	...	...	1	...	1	...	...
Schuyler	7	...	...	...	...	...	1	...	1	...	...	...	...	...	...	4	...	...	1	...
Seneca	14	...	...	...	5	1	4	...	...	...	...	...	...	...	2	2	...	...	...	...
Steuben	40	...	...	...	...	1	8	6	3	...	2	...	...	...	2	9	...	9	...	...
Suffolk	812	21	...	10	23	35	151	10	159	2	...	...	...	...	54	299	3	40	5	...
Sullivan	13	...	...	...	...	1	3	...	...	...	...	...	...	...	...	4	...	5	...	...
Tioga	21	...	...	...	...	1	...	1	3	...	...	...	...	...	...	5	...	10	1	...
Tompkins	25	...	...	...	...	...	2	2	...	...	...	...	...	...	...	21	...	...	...	...
Ulster	59	...	...	1	2	...	9	4	14	...	1	...	...	...	3	16	3	4	1	1
Warren	18	...	...	...	...	...	4	...	...	...	1	...	...	5	...	5	...	2	1	...
Washington	52	...	...	...	3	...	3	...	1	...	...	...	...	...	...	44	...	1	...	...
Wayne	40	1	...	1	...	1	10	1	4	1	1	...	...	...	3	8	...	9	...	...
Westchester	266	...	...	1	13	12	21	20	57	...	23	...	...	...	17	78	...	20	3	1
Wyoming	13	1	...	...	...	...	...	1	1	...	...	...	...	...	...	1	2	4	2	1
Yates	2	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	1	...	...

*This table is based on the following reported original petitions disposed of (boys only): 4,944 PINS petitions, plus 427 PINS petitions substituted for Juvenile Delinquency petitions (39 in New York City and 388 outside New York City); regardless of court finding.

Table 77
FAMILY COURT
Original Petitions Intitially Disposed
Persons in Need of Supervision Proceedings (Girls Only)*
Nature of Dispositions by Region and County
January 1, 1981 through December 31, 1981

Region County	Total Dispositions	No Adjudication											Adjudication							
																	Placement			
		Dismissed for Failure of Proof at Fact Finding Hearing	Other Dismissal at Fact Finding Hearing	Dismissed at Dispositional Hearing	Dismissed for Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (ACD)	Other Dismissed	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged to Mental Hygiene Institution	Discharged to Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division for Youth	Other Placement
Total New York State	4,578	63	...	57	327	244	705	357	897	12	33	...	...	18	136	1,073	11	543	77	25
Total New York City	1,397	10	...	22	211	134	150	171	434	2	...	...	...	1	2	104	...	136	9	11
New York	184	1	...	1	34	13	6	29	85	...	...	...	...	...	...	6	...	9	...	...
Kings	557	3	...	12	96	47	68	69	123	2	...	...	...	...	1	60	...	58	7	11
Queens	300	1	...	5	52	44	24	22	93	...	...	...	...	1	1	19	...	38	...	...
Bronx	312	5	...	1	25	25	34	47	130	...	...	...	...	...	...	15	...	29	1	...
Richmond	44	...	...	3	4	5	18	4	3	...	...	...	...	...	...	4	...	2	1	...
Total Upstate	3,181	53	...	35	116	110	555	186	463	10	33	...	...	17	134	969	11	407	68	14
Albany	142	5	...	17	8	...	22	1	8	3	6	...	...	1	8	48	1	13	1	...
Allegany	7	...	...	...	...	2	...	...	...	...	...	...	...	...	...	3	...	1	1	...
Broome	89	2	...	...	4	2	...	10	2	...	...	...	...	...	5	32	...	30	2	...
Cattaraugus	21	1	...	...	2	2	4	...	1	1	...	...	...	...	...	7	...	3	...	...
Cayuga	20	...	...	...	...	2	1	3	1	...	...	...	...	2	2	6	...	1	2	...
Chautauqua	37	...	...	...	1	2	9	3	1	...	...	...	...	...	1	15	...	5	...	...
Chemung	36	...	...	...	...	...	1	...	2	...	2	...	...	...	5	9	...	16	1	...
Chenango	14	1	...	...	1	...	2	...	1	...	...	...	...	1	...	6	...	2	...	...
Clinton	21	1	...	...	...	...	6	1	6	...	...	...	...	...	...	4	...	3	...	...
Columbia	19	...	...	...	...	...	1	...	6	...	...	...	...	1	...	10	...	1	...	...
Cortland	18	...	...	...	...	...	...	...	1	...	...	...	...	...	1	5	1	4	6	...
Delaware	6	...	...	...	...	...	...	...	...	...	...	...	...	...	1	2	...	3	...	...
Dutchess	78	...	...	...	4	...	21	4	17	1	2	...	...	...	...	24	...	5	...	...
Erie	413	20	...	3	29	39	94	18	29	...	...	...	...	...	5	100	1	37	27	11
Essex	11	...	...	...	...	...	3	2	...	1	...	...	...	...	...	2	...	2	1	...
Franklin	11	...	...	...	...	...	1	1	4	...	...	...	...	...	1	....	...	4	...	...
Fulton	33	...	...	...	...	...	6	1	4	...	...	...	...	...	...	10	...	12	...	...
Genesee	15	...	...	...	...	...	10	...	3	...	...	...	...	...	...	1	...	1	...	...
Greene	15	...	...	...	...	...	4	...	3	...	...	...	...	...	1	7	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	19	2	...	1	2	...	2	...	9	...	...	...	...	...	...	1	...	2	...	...
Jefferson	51	...	...	1	...	1	...	2	7	...	1	...	...	6	...	24	...	9	...	...
Lewis	2	...	...	...	...	..	...	...	...	...	...	...	...	...	...	2	...	...	...	...
Livingston	22	1	...	...	...	...	4	3	3	...	...	...	...	...	...	6	...	5	...	...
Madison	39	1	...	...	2	...	15	1	2	...	...	...	...	..	3	3	1	11	...	...
Monroe	332	...	...	...	1	12	97	48	40	...	1	...	...	...	38	67	1	27	...	...
Montgomery	23	...	...	...	1	...	9	3	3	...	...	...	...	...	1	4	...	2	...	...
Nassau	199	...	...	2	8	3	4	1	24	...	4	...	...	1	11	120	...	20	1	...
Niagara	50	3	...	1	2	...	2	1	10	...	...	...	...	1	...	20	1	6	3	...
Oneida	36	1	...	...	...	2	...	...	2	...	...	...	...	...	...	18	...	6	7	...
Onondaga	175	4	...	2	6	5	25	38	11	...	...	...	...	...	11	38	...	32	2	1
Ontario	21	...	...	...	...	...	7	...	3	...	1	...	...	...	1	7	...	...	2	...
Orange	84	...	...	2	1	...	9	4	18	...	...	...	...	..	5	19	...	24	2	...
Orleans	7	...	...	...	...	...	...	1	...	...	...	...	...	...	...	1	1	3	1	...
Oswego	30	...	...	...	...	...	5	...	...	...	...	...	...	...	1	16	...	8	...	...
Otsego	11	...	...	...	...	...	...	...	...	...	...	...	...	...	...	5	...	6	...	...
Putnam	9	...	...	...	...	...	1	...	3	...	...	...	...	...	...	3	...	2	...	...
Rensselaer	30	2	...	...	...	...	14	...	1	...	1	...	...	...	1	7	1	3	...	...
Rockland	31	...	...	...	...	...	1	...	1	...	...	...	...	1	...	21	...	6	1	...
St. Lawrence	11	...	...	...	1	...	...	...	...	...	...	...	...	...	...	4	...	6	...	...
Saratoga	25	...	...	...	2	3	7	...	...	1	...	...	...	1	...	7	...	4	...	...
Schenectady	42	...	...	...	...	1	5	2	4	...	...	...	...	...	...	24	...	6	...	...
Schoharie	7	...	...	...	...	...	1	...	...	...	...	...	...	...	1	1	...	3	1	...
Schuyler	1	...	...	...	...	...	...	...	...	...	...	...	..	...	...	1	...	...	...	...
Seneca	9	...	...	...	3	...	3	...	...	...	...	...	...	...	...	2	...	1	...	...
Steuben	19	...	...	2	...	...	3	1	2	1	1	...	...	1	1	2	...	4	1	...
Suffolk	502	6	...	4	29	25	118	13	139	...	...	...	...	...	13	136	1	15	3	...
Sullivan	16	...	...	...	...	...	2	1	...	...	2	...	...	...	...	4	...	7	...	...
Tioga	7	...	...	...	...	...	...	...	1	...	...	...	...	...	...	2	...	3	1	...
Tompkins	21	...	...	...	...	...	5	2	1	...	1	...	...	...	...	10	...	2	...	...
Ulster	43	...	...	...	1	1	6	1	15	...	...	...	...	...	1	15	2	1	...	...
Warren	15	...	...	...	...	...	4	1	...	...	...	...	...	1	...	4	...	5	...	...
Washington	16	...	...	...	...	3	1	...	3	...	...	...	...	...	...	8	...	1	...	...
Wayne	18	2	...	...	...	...	4	...	3	...	...	...	...	...	2	2	...	5	...	...
Westchester	245	1	...	...	8	5	15	19	68	2	11	...	...	...	13	72	...	28	2	1
Wyoming	5	...	...	...	...	...	1	...	1	...	...	...	...	...	...	2	...	...	...	1
Yates	2	...	...	...	...	...	...	...	...	...	...	...	...	...	1	....	...	1	...	...

*This table is based on the following reported original petitions disposed of (girls only): 4,513 PINS petitions plus 65 PINS petitions substituted for Juvenile Delinquency petitions (8 in New York City and 57 outside New York City); regardless of court finding.

Table 78

FAMILY COURT

Original Petitions Initially Disposed

Reasons for Juvenile Delinquency Proceedings by Sex and by Region

January 1, 1981 through December 31, 1981

Reasons*	New York City			Counties Outside New York City			Statewide		
	Boys Percent	Girls Percent	Both Percent	Boys Percent	Girls Percent	Both Percent	Boys Percent	Girls Percent	Both Percent
Homicide	0 (15)	0 (2)	0 (17)	0 (13)	0 (1)	0 (14)	0 (28)	0 (3)	0 (31)
Kidnapping	0 (33)	0 (4)	0 (37)	0 (7)	0 (1)	0 (8)	0 (40)	0 (5)	0 (45)
Rape	0 (68)	0 (4)	0 (72)	0 (36)	0 (0)	0 (36)	0(104)	0 (4)	0(108)
Other Sex Offenses	1	0 (3)	1	1	0 (5)	1	1	0 (8)	1
Robbery	11	10	11	3	3	3	8	6	8
Assault or Related Offense	6	17	7	6	17	8	6	16	7
Criminal Sale Control Substance	0 (38)	0 (2)	0 (4)	0 (34)	0 (3)	0 (37)	0 (72)	0 (5)	0 (77)
Criminal Possession Control Substance	1	1	1	1	0 (6)	1	1	0 (12)	1
Other Drug Offense	0 (4)	0 (2)	0 (6)	0 (10)	0 (0)	0 (10)	0 (14)	0 (2)	0 (16)
Criminal Possession of Weapon	4	6	4	1	1	1	3	3	3
Burglary or Related Offense	11	5	11	27	13	25	19	10	17
Criminal Trespass	8	5	8	4	3	4	6	4	6
Arson	0 (31)	0 (2)	0 (33)	1	1	1	1	1	1
Grand Larceny — Auto	3	2	3	1	1	1	2	1	2
Grand Larceny	14	12	14	8	5	8	11	8	11
Petit Larceny	6	9	6	17	30	19	10	22	11
Criminal Possession of Stolen Property	18	18	18	7	5	6	13	10	13
Other Theft	3	2	3	4	2	4	3	2	3
Criminal Mischief	9	5	8	11 (9)	7	10	10	6	9
Gambling	0 (2)	0 (0)	0 (2)	0 (1)	0 (0)	0 (1)	0 (3)	0 (0)	0 (3)
Prostitution	0 (2)	0 (3)	0 (5)	0 (5)	1	0 (25)	0 (7)	1	0 (30)
Other Crimes	5	8	5	8	11	8	6	10	7
Total	100 (14,503)	100 (1,018)	100 (15,521)	100 (10,871)	100 (1,550)	100 (12.421)	100 (25,374)	100 (2,568)	100 (27,942)

*Due to the reporting of multiple reasons for some petitions, the number of reasons exceeds the number of petitions.

NOTE: Figures in parentheses represent the number of reasons. They are given for totals and where the sum is less than 0.5%.

Table 79

FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquency Proceedings (Boys Only)*
Detention by Region and County

January 1, 1981 through December 31, 1981

Region County	Total*	Not Detained	Detained		Length of Detention After Petition							
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days or More
Total New York State	14,796	11,970	192	2,763	883	414	256	271	701	206	28	4
Total New York City	5,980	4,475	70	1,481	596	172	122	111	313	141	23	3
New York	1,075	723	42	339	100	33	21	32	99	44	10	...
Kings	2,442	1,820	15	615	282	71	61	39	114	42	4	2
Queens	1,179	882	12	293	120	24	22	18	60	44	4	1
Bronx	1,159	954	1	205	83	37	17	19	35	9	5	...
Richmond	125	96	...	29	11	7	1	3	5	2	...	...
Total Upstate	8,816	7,495	122	1,282	287	242	134	160	388	65	5	1
Albany	446	367	...	79	3	15	11	6	40	4	...	...
Allegany	11	11	...	...	...	...	...	...	...	...	...	...
Broome	193	176	5	14	6	2	2	1	3	...	...	...
Cattaraugus	73	65	3	8	4	4	...	...	...	...	...	...
Cayuga	60	59	...	1	...	...	1	...	...	...	...	...
Chautauqua	131	128	...	3	...	...	2	...	1	...	...	...
Chemung	105	80	1	25	...	1	1	3	18	2	...	...
Chenango	54	52	...	2	...	2	...	...	...	...	...	...
Clinton	74	57	...	17	...	...	...	17	...	...	...	...
Columbia	42	39	2	1	...	1	...	...	...	...	...	...
Cortland	26	24	...	2	1	1	...	...	...	...	...	...
Delaware	22	20	...	2	2	...	...	...	...	...	...	...
Dutchess	233	205	...	28	6	3	2	7	9	1	...	...
Erie	1,036	899	3	137	24	19	14	18	53	7	2	...
Essex	58	54	...	4	...	...	3	...	...	1	...	...
Franklin	56	56	...	...	...	...	...	...	...	...	...	...
Fulton	52	45	...	7	1	3	...	2	1	...	...	...
Genesee	45	42	...	3	...	...	1	1	1	...	...	...
Greene	17	17	...	...	...	...	...	...	...	...	...	...
Hamilton	1	1	...	...	...	...	...	...	...	...	...	...
Herkimer	30	30	...	...	...	...	...	...	...	...	...	...
Jefferson	151	147	3	4	4	...	...	...	...	...	...	...
Lewis	4	4	...	...	...	...	...	...	...	...	...	...
Livingston	30	30	...	...	...	...	...	...	...	...	...	...
Madison	64	62	...	2	1	...	...	...	1	...	...	...
Monroe	677	452	4	223	46	40	24	22	75	14	1	1
Montgomery	15	13	...	2	...	1	1	...	...	...	...	...
Nassau	900	743	14	153	67	38	20	15	13	...	...	...
Niagara	145	121	6	21	9	...	7	...	5	...	...	...
Oneida	62	50	..	12	5	2	1	4	...	...	...	...
Onondaga	490	360	28	121	21	25	7	7	51	9	1	...
Ontario	30	23	3	5	1	3	...	...	1	...	...	...
Orange	258	197	8	58	8	14	8	12	11	5	...	...
Orleans	16	14	...	2	...	...	...	...	2	...	...	...
Oswego	30	30	...	...	...	...	...	...	...	...	...	...
Otsego	19	19	...	...	...	...	...	...	...	...	...	...
Putnam	80	64	1	16	7	1	...	6	2	...	...	...
Rensselaer	50	36	...	14	1	1	1	1	10	...	...	...
Rockland	129	94	3	35	1	3	2	2	18	9	...	...
St. Lawrence	38	35	...	3	...	...	...	...	3	...	...	...
Saratoga	240	236	...	4	2	...	1	...	1	...	...	...
Schenectady	127	112	3	15	3	4	1	3	3	1	...	...
Schoharie	4	2	1	2	1	...	...	1	...	...	...	...
Schuyler	6	5	...	1	...	...	...	...	1	...	...	...
Seneca	18	18	...	...	...	...	...	...	...	...	...	...
Steuben	79	56	2	22	4	12	1	4	1	...	...	...
Suffolk	1,356	1,235	3	118	30	31	14	13	28	1	1	...
Sullivan	58	57	...	1	...	...	...	1	...	...	...	...
Tioga	20	19	...	1	...	...	...	...	...	1	...	...
Tompkins	43	31	2	12	2	1	2	4	3	...	...	...
Ulster	162	160	...	2	...	...	...	...	2	...	...	...
Warren	45	35	3	10	...	2	1	...	7	...	...	...
Washington	44	43	...	1	...	1	...	...	...	...	...	...
Wayne	49	46	1	3	...	1	...	...	1	1	...	...
Westchester	575	485	22	83	25	10	6	10	23	9	...	...
Wyoming	30	27	1	3	2	1	...	...	...	...	...	...
Yates	7	7	...	...	...	...	...	...	...	...	...	...

*This table is based on the following reported original petitions disposed of (Boys only): 15,223 Juvenile Delinquency petitions minus 427 Juvenile Delinquency petitions for which there were substituted PINS petitions (39 in New York City and 388 outside New York City), regardless of court finding.

Figures in columns 2, 3 and 4 exceed Total because some proceedings are included in both columns 3 and 4. There were 129 such proceedings statewide.

Table 80

FAMILY COURT

Original Petitions Initially Disposed
Juvenile Delinquency Proceedings (Girls Only)*
Detention by Region and County

January 1, 1981 through December 31, 1981

Region County	Total*	Not Detained	Detained		Length of Detention After Petition							
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More
Total New York State	1,846	1,528	26	312	89	52	22	39	87	20	3	...
Total New York City	483	392	1	91	29	15	5	10	23	6	3	...
New York	103	72	1	31	8	5	2	2	7	6	1	...
Kings	174	148	...	26	8	5	2	6	4	...	1	...
Queens	126	106	...	20	7	1	1	2	8	...	1	...
Bronx	65	54	...	11	5	3	...	...	3	...	...	...
Richmond	15	12	...	3	1	1	...	...	1	...	...	...
Total Upstate	1,363	1,136	25	221	60	37	17	29	64	14	...	...
Albany	88	74	...	14	...	5	...	5	3	1	...	...
Allegany	...	...	...	...	...	...	...	...	...	...	...	...
Broome	35	33	...	2	2	...	...	...	...	...	...	...
Cattaraugus	13	12	1	1	...	...	1	...	...	...	...	...
Cayuga	4	4	...	...	...	...	...	...	...	...	...	...
Chautauqua	9	9	...	...	...	...	...	...	...	...	...	...
Chemung	17	15	...	2	...	...	1	...	1	...	...	...
Chenango	6	6	...	...	...	...	...	...	...	...	...	...
Clinton	5	5	...	...	...	...	...	...	...	...	...	...
Columbia	6	5	...	1	...	...	...	1	...	...	...	...
Cortland	1	1	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...	...
Dutchess	25	24	...	1	1	...	...	...	...	...	...	...
Erie	177	156	1	21	5	3	2	...	10	1	...	...
Essex	2	2	...	...	...	...	...	...	...	...	...	...
Franklin	3	3	...	...	...	...	...	...	...	...	...	...
Fulton	11	8	...	3	...	2	...	1	...	...	...	...
Genesee	3	3	...	...	...	...	...	...	...	...	...	...
Greene	4	2	...	2	...	2	...	...	...	...	...	...
Hamilton	1	1	...	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	...	...	...	...	...	...
Jefferson	21	21	...	...	...	...	...	...	...	...	...	...
Lewis	1	1	...	...	...	...	...	...	...	...	...	...
Livingston	6	6	...	...	...	...	...	...	...	...	...	...
Madison	11	11	...	...	...	...	...	...	...	...	...	...
Monroe	155	99	...	56	11	6	5	5	19	10	...	...
Montgomery	8	8	...	...	...	...	...	...	...	...	...	...
Nassau	147	109	4	37	19	5	3	4	6	...	...	...
Niagara	13	13	...	...	...	...	...	...	...	...	...	...
Oneida	13	12	...	1	...	1	...	...	...	...	...	...
Onondaga	91	62	7	28	8	6	2	3	9	...	...	...
Ontario	3	2	...	1	1	...	...	...	...	...	...	...
Orange	32	31	...	1	...	...	...	...	1	...	...	...
Orleans	7	7	...	...	...	...	...	...	...	...	...	...
Oswego	1	...	1	1	1	...	...	...	...	...	...	...
Otsego	2	2	...	...	...	...	...	...	...	...	...	...
Putnam	7	6	...	1	...	...	...	1	...	...	...	...
Rensselaer	10	10	...	...	...	...	...	...	...	...	...	...
Rockland	19	16	...	3	...	1	...	...	2	...	...	...
St. Lawrence	2	2	...	...	...	...	...	...	...	...	...	...
Saratoga	28	26	...	2	1	...	1	...	...	...	...	...
Schenectady	14	12	2	1	...	1	...	...	...	...	...	...
Schoharie	1	...	1	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	7	5	...	2	...	1	...	1	...	...	...	...
Steuben	14	11	...	3	2	...	...	...	1	...	...	...
Suffolk	178	158	1	19	7	2	...	5	5	...	...	...
Sullivan	12	11	1	1	1	...	...	...	...	...	...	...
Tioga	2	2	...	...	...	...	...	...	...	...	...	...
Tompkins	4	3	1	1	...	1	...	...	...	...	...	...
Ulster	25	22	1	3	...	...	...	...	2	1	...	...
Warren	8	8	...	...	...	...	...	...	...	...	...	...
Washington	3	3	...	...	...	...	...	...	...	...	...	...
Wayne	7	7	...	...	...	...	...	...	...	...	...	...
Westchester	97	83	4	13	1	1	2	3	5	1	...	...
Wyoming	4	4	...	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...

*This table is based on the following reported original petitions disposed of (Girls only): 1,911 Juvenile Delinquency petitions minus 65 Juvenile Delinquency petitions for which there were substituted PINS petitions (8 in New York City and 57 outside New York City), regardless of court finding.

Figures in columns 2, 3 and 4 exceed Total because some proceedings are included in both columns 3 and 4. There were 20 such proceedings statewide.

Table 81
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquency Proceedings (Boys Only)*
Nature of Dispositions by Region and County
January 1, 1981 through December 31, 1981

		No Adjudication											Adjudication										
																	Placement						
Region County	Total Dispositions	Dismissed for Failure of Proof at Fact-Finding Hearing	Other Dismissal at Fact-Finding Hearing	Dismissed at Dispositional Hearing	Dismissed for Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (ACD)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged to Mental Hygiene Institution	Discharged to Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or suitable Private Person	Comm. of Social Services	Division for Youth Title 2	Division for Youth Title 3	Restrictive Placement (DFY) 5 Yrs.	Restrictive Placement (DFY) 3 Yrs.	Other Placement
Total New York State	14,796	465	...	150	762	519	3,622	1,019	1,950	379	342	...	...	7	640	2,888	13	656	585	715	8	9	67
Total New York City	5,980	174	...	66	506	250	1,217	446	1,367	160	14	...	...	3	102	831	1	82	429	280	6	6	40
New York	1,075	71	...	24	79	25	88	58	190	128	2	...	...	1	42	140	1	10	107	87	3	5	14
Kings	2,442	36	...	5	181	152	544	200	663	...	1	...	...	1	15	368	...	55	111	83	1	...	26
Queens	1,179	41	...	15	88	46	311	62	247	16	3	...	...	1	10	163	...	5	117	54	...	...	...
Bronx	1,159	23	...	15	149	26	218	117	254	12	5	...	...	...	27	156	...	11	92	53	2	1	...
Richmond	125	3	...	7	9	3	56	9	13	4	3	...	...	...	8	4	...	1	2	3	...	...	...
Total Upstate	8,816	291	...	84	256	269	2,405	573	583	219	328	...	...	4	538	2,057	12	574	156	435	2	3	27
Albany	446	43	...	8	12	2	128	19	12	...	1	...	...	...	40	95	3	24	...	59	...	...	...
Allegany	11	...	...	...	...	...	...	...	1	...	...	...	...	...	1	8	...	...	...	1	...	...	...
Broome	193	9	...	3	2	...	1	40	...	12	...	...	...	...	9	71	...	26	1	21	...	...	...
Cattaraugus	73	...	...	...	...	5	27	...	5	...	...	...	...	...	1	22	...	7	5	1	...	...	...
Cayuga	60	...	...	...	...	1	2	3	...	6	3	...	...	1	11	15	...	3	12	3	...	...	...
Chautauqua	131	6	...	...	1	10	40	9	...	1	...	...	...	...	4	45	...	5	3	7	...	...	...
Chemung	105	...	...	...	1	1	...	1	1	...	9	...	...	...	9	37	...	27	...	19	...	...	...
Chenango	54	...	...	...	1	1	4	...	...	6	...	...	...	...	3	20	...	16	...	...	...	...	3
Clinton	74	2	...	...	...	...	8	...	1	...	...	...	...	...	2	35	3	18	...	5	...	...	...
Columbia	42	3	...	...	2	4	5	1	14	...	...	...	...	...	...	7	...	...	6	...	...	...	...
Cortland	26	2	...	...	...	...	6	2	...	4	...	...	...	...	2	7	1	...	1	1	...	...	...
Delaware	22	1	...	2	...	...	1	...	1	...	...	...	...	...	3	4	...	1	5	4	...	...	...
Dutchess	233	5	...	2	3	3	50	13	14	3	24	...	...	...	12	62	...	36	8	...	...	...	...
Erie	1,036	76	...	3	50	106	467	27	10	3	...	...	...	1	27	168	...	20	9	56	...	...	13
Essex	58	3	...	...	...	13	16	...	...	1	...	...	...	...	2	13	...	4	...	4	...	...	2
Franklin	56	1	...	...	...	...	4	3	1	...	...	...	...	...	14	28	...	4	...	1	...	...	...
Fulton	52	...	...	...	...	...	31	...	4	...	...	...	...	...	...	4	...	8	...	5	...	...	...
Genesee	45	...	...	...	...	1	23	4	4	...	...	...	...	...	...	4	...	3	5	1	...	...	...
Greene	17	1	...	...	...	1	8	...	...	1	...	...	...	...	...	4	...	...	...	2	...	...	...
Hamilton	1	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	30	1	...	...	...	2	9	...	3	...	...	...	...	...	1	6	...	3	5	...	...	...	...
Jefferson	151	5	...	...	4	3	19	10	...	2	6	...	...	...	3	75	...	8	...	16	...	...	...
Lewis	4	...	...	...	...	...	1	1	...	...	...	...	...	...	...	1	...	1	...	...	...	...	...
Livingston	30	...	...	...	...	...	4	1	3	...	...	...	...	...	2	18	...	1	1	...	...	...	...
Madison	64	...	...	...	1	...	25	...	2	...	...	...	...	...	15	13	...	8	...	...	...	...	...
Monroe	677	3	...	...	4	16	225	81	17	3	...	...	...	...	95	123	...	32	30	46	...	...	2
Montgomery	15	...	...	...	...	...	4	1	2	...	1	...	...	...	...	5	...	...	...	2	...	...	...
Nassau	900	14	...	...	14	13	109	24	21	74	153	...	...	1	114	267	...	69	1	23	1	1	1
Niagara	145	3	...	...	10	1	18	1	10	...	4	...	...	...	4	36	1	11	16	8	...	...	2
Oneida	62	3	...	...	...	...	2	4	4	1	...	...	...	...	...	24	...	8	8	8	...	...	...
Onondaga	490	58	...	1	3	3	245	58	2	3	...	...	...	...	11	46	...	30	4	26	...	...	...
Ontario	30	1	...	...	...	...	7	...	...	4	1	...	...	...	2	9	...	3	2	1	...	...	...
Orange	258	8	...	1	9	1	56	66	5	11	...	...	...	...	5	45	...	21	1	28	...	1	...
Orleans	16	...	...	2	...	...	...	...	...	...	...	...	...	...	...	9	...	2	3	...	...	...	...
Oswego	30	...	...	...	...	...	1	...	...	2	2	...	...	...	2	17	...	6	...	...	...	...	...
Otsego	19	2	...	...	...	...	...	...	...	...	...	...	...	...	4	11	...	2	...	...	...	...	...
Putnam	80	...	...	1	...	...	14	8	7	4	...	...	...	...	...	37	...	3	...	5	...	...	1
Rensselaer	50	6	...	...	...	4	9	9	1	...	1	...	...	...	4	10	...	4	1	...	...	...	1
Rockland	129	...	...	...	2	2	25	3	21	2	...	...	...	...	...	46	...	18	1	8	...	1	...
St. Lawrence	38	1	...	1	5	2	...	...	...	1	...	...	...	...	1	11	...	13	...	3	...	...	...
Saratoga	240	5	...	1	7	12	144	11	...	11	...	...	...	...	...	31	...	14	...	4	...	...	...
Schenectady	127	2	...	...	4	2	12	3	16	...	13	...	...	...	1	53	...	12	...	9	...	...	...
Schoharie	4	...	...	...	...	...	...	...	...	2	...	...	...	...	...	...	...	1	...	1	...	...	...
Schuyler	6	...	...	...	...	...	...	...	1	...	...	...	...	...	1	3	...	...	1	...	...	...	...
Seneca	18	1	...	...	3	...	8	1	...	...	...	...	...	...	1	2	...	...	2	...	...	...	...
Steuben	79	3	...	7	1	1	15	10	6	...	13	...	...	...	3	9	...	8	3	...	...	...	...
Suffolk	1,356	8	...	47	110	41	347	58	300	13	1	...	...	...	85	272	1	49	1	21	...	...	2
Sullivan	58	2	...	...	...	2	20	...	7	...	6	...	...	...	1	15	...	3	...	2	...	...	...
Tioga	20	1	...	...	1	2	1	...	...	...	...	...	...	...	...	2	...	2	10	...	1	...	...
Tompkins	43	...	...	...	...	...	2	12	1	...	...	...	...	...	2	20	...	2	1	3	...	...	...
Ulster	162	1	...	...	2	2	54	46	10	2	2	...	...	...	...	23	...	...	8	12	...	...	...
Warren	45	...	...	...	...	...	5	3	3	1	...	...	...	1	5	16	...	8	...	3	...	...	...
Washington	44	1	...	...	1	1	14	...	1	...	...	...	...	...	...	25	...	...	...	1	...	...	...
Wayne	49	...	...	1	...	3	18	2	1	...	...	...	...	...	3	10	...	9	1	1	...	...	...
Westchester	575	9	...	2	3	8	163	36	70	46	88	...	...	...	29	85	2	23	1	10	...	...	...
Wyoming	30	1	...	...	...	...	7	2	1	...	...	...	...	...	...	13	...	2	...	4	...	...	...
Yates	7	...	...	2	...	...	...	...	...	...	...	...	...	...	4	...	1	...	...	...	...	...	...

*This table is based on the following reported original petitions disposed of (boys only): 15,223 Juvenile Delinquency petitions minus 427 Juvenile Delinquency petitions for which there were substituted PINS petitions (39 in New York City and 388 outside New York City); regardless of court finding.

Table 82

FAMILY COURT

Original Petitions Initially Disposed

Juvenile Delinquency Proceedings (Girls Only)*

Nature of Dispositions by Region and County

January 1, 1981 through December 31, 1981

Region County	Total Dispositions	No Adjudication											Adjudication										
																	Placement						
		Dismissed for Failure of Proof at Fact-Finding Hearing	Other Dismissal at Fact-Finding Hearing	Dismissed at Dispositional Hearing	Dismissed for Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (ACD)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged to Mental Hygiene Institution	Discharged to Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division for Youth Title 2	Division for Youth Title 3	Restrictive Placement (DFY) 5 Yrs.	Restrictive Placement (DFY) 3 Yrs.	Other Placement
Total New York State	1,846	59	...	24	69	77	603	142	206	57	41	...	1	...	78	287	1	84	33	80	...	1	3
Total New York City	483	22	...	6	31	28	148	37	100	20	...	...	...	...	5	55	...	7	11	13	...	...	...
New York	103	9	...	3	5	4	15	9	16	16	...	...	...	...	1	15	...	3	5	2	...	...	...
Kings	174	4	...	...	14	9	57	17	38	...	...	...	...	...	...	22	...	3	3	7	...	...	...
Queens	126	8	...	2	4	14	51	3	27	2	...	...	...	...	2	10	...	1	1	1	...	...	...
Bronx	65	1	...	1	8	1	18	6	15	1	...	...	...	...	1	8	...	...	2	3	...	...	...
Richmond	15	...	...	...	...	...	7	2	4	1	...	...	...	...	1	...	...	...	...	...	...	...	...
Total Upstate	1,363	37	...	18	38	49	455	105	106	37	41	...	1	...	73	232	1	77	22	67	...	1	3
Albany	88	6	...	5	6	...	25	...	5	4	...	...	...	...	6	19	...	3	1	8	...	...	...
Allegany	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Broome	35	2	...	1	...	...	...	9	1	1	...	...	...	...	...	11	1	6	1	2	...	...	...
Cattaraugus	13	...	...	1	...	3	4	...	...	2	...	...	...	...	1	1	...	...	...	1	...	...	...
Cayuga	4	...	...	...	...	...	...	...	...	...	...	...	...	...	2	1	...	...	...	1	...	...	...
Chautauqua	9	1	...	...	...	1	3	1	...	1	...	...	...	...	...	1	...	1	...	...	...	...	...
Chemung	17	...	...	...	...	...	1	...	...	1	2	...	...	...	1	4	...	4	...	4	...	...	...
Chenango	6	1	...	1	...	...	1	1	...	...	...	...	1	...	...	1	...	...	...	...	...	...	...
Clinton	5	...	...	...	...	...	3	...	...	...	...	...	...	...	...	2	...	...	...	...	...	...	...
Columbia	6	...	...	...	1	...	3	...	1	...	...	...	...	...	...	...	...	...	1	...	...	...	...
Cortland	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Dutchess	25	1	...	2	1	...	3	1	2	...	4	...	...	...	1	8	...	2	...	...	...	...	...
Erie	177	7	...	...	8	22	94	14	2	1	...	...	...	...	1	12	...	...	4	10	...	...	2
Essex	2	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...
Franklin	3	...	...	...	...	...	...	...	1	...	...	...	...	...	1	1	...	...	...	...	...	...	...
Fulton	11	...	...	1	...	...	4	...	1	...	...	...	...	...	...	2	...	1	...	2	...	...	...
Genesee	3	...	...	...	...	...	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Greene	4	1	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	2	...	...	...
Hamilton	1	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Jefferson	21	2	...	...	1	3	4	1	...	2	...	...	...	...	1	3	...	...	...	4	...	...	...
Lewis	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...
Livingston	6	...	...	...	...	...	2	...	1	...	...	...	...	...	...	2	...	...	1	...	...	...	...
Madison	11	...	...	1	...	...	5	1	1	...	...	...	...	...	1	2	...	...	...	...	...	...	...
Monroe	155	...	...	...	...	2	58	24	9	...	...	...	...	...	19	26	...	4	6	7	...	...	...
Montgomery	8	...	...	...	...	...	3	1	...	...	...	...	...	...	...	4	...	...	...	...	...	...	...
Nassau	147	2	...	...	2	6	28	5	3	13	17	...	...	...	14	36	...	18	...	3	...	...	...
Niagara	13	1	...	...	1	...	1	...	3	...	1	...	...	...	...	3	...	...	3	...	...	...	...
Oneida	13	1	...	...	...	...	...	1	1	...	...	...	...	...	...	6	...	1	2	1	...	...	...
Onondaga	91	4	...	...	1	1	44	16	...	...	...	...	...	...	7	7	...	4	1	6	...	...	...
Ontario	3	...	...	...	...	1	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Orange	32	...	...	...	2	...	12	4	...	...	...	...	...	...	1	5	...	4	...	4	...	...	...
Orleans	7	...	...	1	1	...	...	1	...	...	...	...	...	...	...	2	...	2	...	...	...	...	...
Oswego	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...
Otsego	2	1	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...
Putnam	7	...	...	...	...	...	1	...	5	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Rensselaer	10	...	...	...	...	...	3	2	3	...	...	...	...	...	...	1	...	1	...	...	...	...	...
Rockland	19	...	...	...	1	...	2	...	3	...	...	...	...	...	...	8	...	3	...	2	...	...	...
St. Lawrence	2	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...
Saratoga	28	...	...	1	...	...	19	1	...	...	...	...	...	...	...	4	...	3	...	...	...	...	...
Schenectady	14	1	...	...	...	...	...	2	2	...	2	...	...	...	...	4	...	1	...	2	...	...	...
Schoharie	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	7	...	...	...	...	...	3	1	...	...	1	...	...	...	...	...	...	2	...	...	...	...	...
Steuben	14	...	...	...	...	...	5	4	1	...	1	...	...	...	...	1	...	1	1	...	...	...	...
Suffolk	178	3	...	3	11	3	67	8	42	2	...	...	...	...	5	27	...	6	1	...	...	...	...
Sullivan	12	...	...	...	...	...	3	...	...	...	...	...	...	...	1	6	...	1	...	1	...	...	...
Tioga	2	...	...	...	...	...	...	...	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Tompkins	4	...	...	...	...	...	...	...	...	1	1	...	...	...	2	...	...	...	...	...	...	...	...
Ulster	25	1	...	...	...	...	6	5	5	...	1	...	...	...	3	2	...	1	...	1	...	...	...
Warren	8	...	...	...	...	2	4	...	...	...	...	...	...	...	...	1	...	1	...	...	...	...	...
Washington	3	...	...	...	...	...	2	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...
Wayne	7	...	...	1	...	...	3	1	...	...	...	...	...	...	...	2	...	...	...	...	...	...	...
Westchester	97	2	...	...	1	5	32	1	11	7	11	...	...	...	6	11	...	3	...	5	...	1	1
Wyoming	4	...	...	...	...	...	1	...	1	...	...	...	...	...	...	2	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...

*This table is based on the following reported original petitions disposed of (girls only): 1,911 Juvenile Delinquency petitions minus 65 Juvenile Delinquency petitions for which there were substituted PINS petitions (8 in New York City and 57 outside New York City); regardless of court finding.

Table 83

FAMILY COURT

Original Petitions Initially Disposed
Original Allegations* of Family Offense Proceedings by Region

January 1, 1981 through December 31. 1981

Region	Total	Assault	Attempted Assault	Reckless Endangerment	Menacing	Disorderly Conduct	Harrassment	Other
Total New York State	30,962	11,986	690	710	3,008	6,041	8,520	7
Total New York City	15,444	5,520	274	250	2,193	2,945	4,257	5
Total Upstate	15,518	6,466	416	460	815	3,096	4,263	2

*Figures represent the total number of allegations. Since many petitions contain more than one allegation, the total number of such allegations may be greater than the total number of petitions disposed.

Table 84

FAMILY COURT

Family Offense Proceedings

Original Petitions Initially Disposed by Petitioners and Respondents

January 1, 1981 through December 31, 1981

A. New York City

Respondents	Petitioners								
	Total*	Wife of Respondent	Mother of Respondent	Husband of Respondent	Father of Respondent	Daughter of Respondent	Son of Respondent	Other Member Same Family/ Household of Respondent	Other
Husband of Injured Individual	5,852	5,840	11	0	0	1	0	0	0
Father of Injured Individual	103	24	10	0	2	41	24	0	2
Wife of Injured Individual	431	0	2	427	2	0	0	0	0
Mother of Injured Individual	78	0	5	1	1	45	20	0	6
Son of Injured Individual	904	5	682	0	212	0	3	0	2
Daughter of Injured Individual	207	0	175	1	27	1	0	1	2
Other Member of Same Family or Household of Injured Individual	328	0	0	1	1	0	0	316	10
Other	177	2	1	1	1	0	1	2	169
Total*	8,080	5,871	886	431	246	88	48	319	191

*This table excluded one petition that was included in Table 3-69.

B. Outside New York City

Respondents	Petitioners								
	Total*	Wife of Respondent	Mother of Respondent	Husband of Respondent	Father of Respondent	Daughter of Respondent	Son of Respondent	Other Member Same Family/ Household of Respondent	Other
Husband of Injured Individual	9,359	9,344	5	0	0	3	2	1	4
Father of Injured Individual	279	56	10	0	0	109	72	11	21
Wife of Injured Individual	799	0	3	793	3	0	0	0	0
Mother of Injured Individual	113	0	1	5	2	58	41	1	5
Son of Injured Individual	956	2	673	0	272	2	0	3	4
Daughter of Injured Individual	217	0	173	0	43	0	0	0	1
Other Member of Same Family or Household of Injured Individual	420	1	12	0	1	0	0	404	2
Other	130	0	3	0	0	1	0	0	126
Total*	12,273	9,403	880	798	321	173	115	420	163

*This table excluded 4 petitions that were included in Table 3-69.

C. Statewide

Respondents	Petitioners								
	Total*	Wife of Respondent	Mother of Respondent	Husband of Respondent	Father of Respondent	Daughter of Respondent	Son of Respondent	Other Member Same Family/ Household of Respondent	Other
Husband of Injured Individual	15,211	15,184	16	0	0	4	2	1	4
Father of Injured Individual	382	80	20	0	2	150	96	11	23
Wife of Injured Individual	1,230	0	5	1,220	5	0	0	0	0
Mother of Injured Individual	191	0	6	6	3	103	61	1	11
Son of Injured Individual	1,860	7	1,355	0	484	2	3	3	6
Daughter of Injured Individual	424	0	348	1	70	1	0	1	3
Other Member of Same Family or Household of Injured Individual	748	1	12	1	2	0	0	720	12
Other	307	2	4	1	1	1	1	2	295
Total*	20,353	15,274	1,766	1,229	567	261	163	739	354

*This table excluded 5 petitions that were included in Table 3-69.

Table 85

FAMILY COURT

Dispositions of Family Offense Proceedings by Region and County

All Petitions

January 1, 1981 through December 31, 1981

Region County	Total	Dismissed Failure of Proof	Dismissed Failure to Prosecute	Other Dismissal	Withdrawn	Transfer to Another County	Consolidated With Another Petition	Judgment Suspended	Probation	Order of Protection	Probation and Order of Protection	Other
Total New York State	20,358	359	5,559	2,551	3,581	7	79	13	21	7,928	17	233
Total New York City	8,081	163	3,233	1,718	588	2	14	2	5	2,237	7	110
New York	1,210	51	443	136	126	2	3	0	0	436	2	11
Kings	3,221	35	1,308	808	218	0	1	1	5	793	2	50
Queens	1,881	60	893	193	143	0	10	1	0	571	2	8
Bronx	1,174	15	233	533	72	0	0	0	0	281	0	40
Richmond	595	2	356	48	29	0	0	0	0	156	1	1
Total Upstate	12,277	196	2,326	833	2,993	5	65	11	16	5,691	10	123
Albany	348	0	60	1	106	0	0	0	0	177	0	4
Allegany	33	0	1	4	8	0	1	1	0	18	0	0
Broome	343	18	66	19	5	0	0	0	0	229	0	6
Cattaraugus	11	0	1	2	4	0	0	0	0	2	1	1
Cayuga	85	2	2	4	26	0	0	0	1	49	0	1
Chautauqua	68	0	28	3	6	0	0	0	0	31	0	0
Chemung	66	0	4	0	14	0	0	0	1	41	0	6
Chenango	62	3	4	5	21	0	0	0	0	28	0	1
Clinton	65	0	1	4	30	0	0	0	0	28	1	1
Columbia	50	1	3	2	25	0	0	0	0	18	0	1
Cortland	58	0	1	4	14	0	0	0	0	39	0	0
Delaware	86	1	5	10	20	0	0	1	2	44	0	3
Dutchess	363	6	41	21	99	0	0	0	1	195	0	0
Erie	996	28	222	122	99	0	2	0	2	509	0	12
Essex	12	0	0	0	8	0	0	0	0	4	0	0
Franklin	62	1	0	9	20	0	0	0	1	31	0	0
Fulton	95	0	8	2	25	0	1	0	1	58	0	0
Genesee	62	1	3	2	20	0	0	0	0	35	0	1
Greene	76	0	6	5	25	1	0	0	0	35	0	0
Hamilton	1	0	0	1	0	0	0	0	0	0	0	0
Herkimer	142	5	13	11	49	0	0	0	0	64	0	0
Jefferson	274	6	27	21	58	0	2	0	0	154	1	5
Lewis	13	0	1	0	0	0	0	0	0	12	0	0
Livingston	0	0	0	0	0	0	0	0	0	0	0	0
Madison	55	0	7	1	19	0	0	0	0	28	0	0
Monroe	414	0	33	88	56	0	0	0	0	235	0	0
Montgomery	75	1	0	10	20	0	1	1	0	40	0	2
Nassau	2,177	53	368	105	708	1	14	2	1	899	0	26
Niagara	115	1	4	8	33	0	0	0	0	69	0	0
Oneida	71	0	7	2	26	0	0	0	0	36	0	0
Onondaga	576	3	88	119	53	0	1	0	0	312	0	0
Ontario	137	1	19	3	32	0	2	0	0	78	0	2
Orange	131	0	21	5	45	0	0	0	0	59	0	1
Orleans	18	0	5	5	3	0	0	0	0	5	0	0
Oswego	32	0	1	0	17	0	0	0	0	14	0	0
Otsego	5	0	0	0	2	0	0	0	0	3	0	0
Putnam	87	0	0	9	25	0	0	0	0	51	0	0
Rensselaer	165	1	14	5	36	0	16	3	1	88	0	1
Rockland	129	2	20	14	32	0	0	0	0	60	0	1
St. Lawrence	98	5	11	3	7	0	1	0	1	69	1	0
Saratoga	139	3	31	12	29	0	0	0	0	62	0	2
Schenectady	172	0	24	4	59	0	1	0	0	79	0	5
Schoharie	30	0	0	1	12	0	0	0	0	16	1	0
Schuyler	32	0	2	2	12	0	1	0	0	15	0	0
Seneca	21	0	6	0	1	0	0	0	0	14	0	0
Steuben	65	2	7	11	12	0	0	1	0	32	0	0
Suffolk	1.921	30	635	45	478	2	1	0	0	710	1	19
Sullivan	66	0	5	13	14	0	2	0	0	32	0	0
Tioga	46	2	2	1	20	0	0	0	0	20	1	0
Tompkins	62	3	8	3	12	0	0	0	0	35	1	0
Ulster	87	0	13	6	45	0	0	2	0	17	0	4
Warren	18	0	1	2	5	0	0	0	0	10	0	0
Washington	23	0	2	0	5	0	0	0	0	16	0	0
Wayne	96	1	4	3	31	0	0	0	0	57	0	0
Westchester	1.799	15	487	101	446	1	19	0	4	707	2	17
Wyoming	41	1	3	0	15	0	0	0	0	21	0	1
Yates	3	0	1	0	1	0	0	0	0	1	0	0

Table 86
FAMILY OFFENSE PROCEEDINGS
Commenced in New York City Criminal Court
(Including Cases Disposed in Supreme Court)

January 1, 1981 through December 31, 1981

Docket Disposition	Total	Felony					Misdemeanor			Violation	Unknown
		A	B	C	D	E	A	B	Unclassified	Infraction	
Acquitted	3			1			1	1			
Dismissed	401			1	33	6	235	28			18
Dismissed — 730	0										
Dismissed — because of guilty finding in companion case	3						2			1	
Dismissed — 170.55	0										
Total Not Guilty	407		0	2	33	6	238	29		1	18
Sentence imposed	105		2	8	20	1	49	10		13	2
Youthful offender	2						1				1
Total Guilty	107		2	8	20	1	50	10		13	3
Held for Grand Jury	1		1								
Indicted	0										
Transferred	569		2	3	2		2		2	13	545
Waived to Grand Jury											
Total Referred to Supreme Court	570		3	3	2		2	0	2	13	545
Total Disposed	1084		5	10	55	7	290	39	2	107	566

Chapter 4

Special Programs

4.1 Mental Health Information Service

Section 29.09 of the Mental Hygiene Law establishes in each of the State's four judicial departments a Mental Health Information Service. The director in each department and his assistants and staff are appointed by the Presiding Justice of the appropriate Appellate Division. The statutory functions of the service include reviewing the admission and retention of mentally ill patients in mental health facilities, providing courts with all relevant information concerning the patient's case in judicial proceedings, and providing similar services for the mentally disabled and their families.

Table 87 is a summary of the principal activities of the Mental Health Information Service in 1981 as tabulated from reports furnished to the Office of Court Administration. It should be noted that many of the statutory responsibilities of the MHIS have been mandated by the Legislature since 1976, including responsibilities in the areas of patient abuse, conditional discharge, and community placement. The MHIS, however, has had no increase in staff with which to carry out these additional responsibilities. As a result, it has become increasingly evident that the MHIS is not able to meet its statutory responsibilities, particularly in the areas of admissions reviews, patient abuse reviews, reviews of conditionally released patients, and the review of voluntary patients. This is a matter of deep concern, for the MHIS role in these areas is considered essential to the protection of the State's mentally ill citizens.

4.2 Central Index for Post-Conviction Applications

A Central Index for Post-Conviction Applications was established in the office of the Administrative Board of the Judicial Conference on July 1, 1970. The system was devised after extensive discussion with a committee of both State and Federal judges which was chaired jointly by then Chief Judge Stanley H. Fuld and then Chief Judge Edward J. Lumbard. The main purpose of the Central Index was to permit a judge, whether State or Federal, who receives post-conviction applications to look to one place to determine if the petitioner has made similar application to another court or has another application presently pending.

The system operates relatively simply. When a judge receives a post-conviction application, he completes a card form and mails it to the Office of Court Administration. This form indicates the petitioner's name, his New York State Identification Number (NYSID), the date the application was received, the type of application, the judge's name, the court, and the docket number. OCA then processes the information on its computer, and the computer generates a two-part form which is sent to the judge. The first part of the form indicates any previously reported application made by the petitioner since July 1, 1970. The second part of the form is completed by the judge when the application is disposed of, and it is sent to the Office of Court Administration for inclusion in the Central Index.

In 1981, 1,627 applications were received by the Central Index. 1,605 from State courts and 22 from Federal courts. All 1,098 dispositions received were from State courts.

An analysis by computer of the applications received indicates that 731 post-conviction applications during the year had been filed previously in another court. This would indicate that those who bring post-conviction applications do not limit themselves to one application or one court. Thus, the main purpose in establishing the Index - to make available to the courts the information that other similar applications have been made or are pending in other courts - is being served, albeit on a limited basis.

Table 88 sets forth the type applications received by both the State and Federal courts which were reported to the Office of Court Administration in 1981.

4.3 Retainer and Closing Statements

Under 22 NYCRR Parts 603, 551 and 1022, every attorney in a contingent fee in the First, Second and Fourth Judicial Departments* must file a Statement of Retainer with the Office of Court Administration in cases involving personal injury, property damage, wrongful death, or change of grade. This statement must be filed within 30 days of the date the lawyer is retained (15 days in the case of "of counsel" lawyers). It sets forth the date of the agreement, the terms of compensation, the agreement as to work and fee division between the original lawyer and the "of counsel" lawyer, and data about the person referring the client to the lawyer.

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*At present, there is no filing rule for the Third Judicial Department.

In addition, every such lawyer must file a closing statement with the Office of Court Administration within 15 days of the date the monies became available to him. This statement sets forth such information as the monetary amount of the settlement or award (if any). If an action was commenced, it contains the date, court and county of commencement and the method of the recovery, the person paying the recovery, the distribution of the recovery to the client and the lawyer's fees and other disbursements.

The purpose of these statements is to provide information for use by the three Appellate Divisions to prevent the charging of unconscionable fees in contingent fee cases and to discourage the unlawful solicitation of cases.

Table 89 shows that 97,203 retainer statements were filed with the Office of Court Administration in 1981.

Table 90 gives the court in which actions were terminated and the monetary breakdown by settlement or judgment. For cases commenced in the Supreme Court, the largest single group of cases terminated involved recoveries between $10,000 and $15,000. The largest single group of cases terminated in the lower courts involved recoveries between $1,000 and $2,000. The great majority of claims settled resulted in at least some monetary recovery. Although there were some very large recoveries, they were proportionately few; there were 2,328 recoveries in the $50,000 to $100,000 category and 1,553 recoveries over $100,000.

4.4 Alternative Dispute Resolution Program

The compulsory arbitration statute was enacted by the Legislature in 1970. The Judiciary Law Section 213 (8). The statute was subsequently extended three times by the Legislature, and in 1978 enacted permanently (CPLR 3405).

The Alternative Dispute Resolution Program was established on a pilot basis in Monroe County (September 1,1970), Bronx County (May 17,1971), Broome County (March 1,1972), and Schenectady County (June 18, 1973).

Rule 3405 authorized the Chief Judge of the Court of Appeals to promulgate rules for the arbitration of claims for the recovery of a sum of money not exceeding $6,000, exclusive of interest, pending in any court or courts. The Chief Judge has adopted rules governing arbitration (22 NYCRR 28).

During 1980, as part of the Plan of the Chief Judge to Reduce Court Delay in New York State, the Alternative Dispute Resolution Program was extended to Albany, Rensselaer and Ulster Counties in the Third District; all other counties of the Seventh District; Niagara County in the Eighth District; Dutchess, Orange, Rockland, and Westchester Counties in the Ninth District; Nassau and Suffolk Counties in the Tenth District; and New York, Kings and Queens Counties in New York City. In 1981, the Program was extended to Putnam County in the Ninth District.

Table 91 is a recapitulation of the statewide Alternative Dispute Resolution Program beginning with the established programs and continuing with the programs added by the plan. Table 92 is an analysis of the outflow from the program by county with the established counties first and those counties added by the plan following. The tables show that 23,637 dispositions were achieved through this program.

One measure for evaluating the success of the program is the acceptance of the dispositions by litigants. Table 91 shows that approximately 92 percent of the dispositions are accepted, while 7.9 percent of the cases have a de novo trial demand filed.

4.5 Statements of Appointments and Statements of Fees or Commissions

Section 35-a of the Judiciary Law, as originally enacted by the Legislature in 1967, required the filing of a Statement of Appointment by each person appointed by the courts to perform services in actions and proceedings for a fee or an allowance. The statute called for these statements to be filed with the Judicial Conference within 30 days of an appointment. The required information included the name and the address of the appointee, the nature of the appointment, the title of litigation, and the name of the court and the judge or justice making the appointment.

In addition, within 30 days of receiving a fee, the appointee was required to execute a Statement of Services Rendered with other pertinent data related to the fee received. Under the statute, all statements filed were to be kept as matters of public record. The law also required that an annual summary of the information in the statement be furnished to the four Appellate Divisions of the Supreme Court for use in supervising court appointments in their Judicial Departments. A total of 121,687 statements of appointment have been filed since July 1, 1967.

An extensive study of this system of two reports for each appointment revealed a number of inefficiencies. Not the least of these was the failure of many appointees to file a Statement of Services Rendered after payment of the fee. To deal with this problem, the Office of Court Administration sponsored legislation amending section 35-a which was enacted as Chapter 834, Laws of 1975, and which went into effect starting with appointments made after September 1, 1975.

Under the amended law, judges who approve fees are responsible for filing a single comprehensive statement, entitled Statement of Fees or Commissions, on appointments for which the fee is more than $200. The judges are required to send the statements to the Office of Court Administration each week for data processing and filing. Fees of $200 or less are not required to be reported because they are believed to have little significance in the statistical study of appointments made in the court system.

In 1981 a total of 3,717 Statements of Fees or Commissions were filed with the Office of Court Administration. The new system accomplished its intended purpose of obtaining timely reports on court appointments without loss of required data provided by the older system. While the older system was not abolished by Chapter 834, only seven Statements were filed under that system in 1981.

4.6 Attorney Grievance Committees

Section 90 of the Judiciary Law places with the four Appellate Divisions, the authority to "censure, suspend... or remove from office" any lawyer who is found guilty of a crime, misconduct, or malpractice, or any conduct prejudicial to the administration of justice. To accomplish this purpose, the Appellate Divisions have appointed attorney discipline committees in their respective departments.

Since April 1, 1980 the staff of the Committees are employees of the Appellate Division. Prior to this, the staff in the First Department was funded through a contractual agreement with the Association of the Bar of the City of New York.

In 1981, the Grievance Committees received 6,474 new matters and disposed of 6,770 matters, as shown in Table 93. The Committees also were involved in 205 litigated matters.

In May of 1981 Chief Judge Cooke accepted the offer of the American Bar Association to evaluate the state's disciplinary system. The study will compare New York's procedures against the American Bar Association Standards for Lawyer Discipline and Disciplinary Proceedings which were adopted in 1979. A report will be submitted to the Chief Judge when the study is completed.

4.7 Attorney Registration

Effective April 1, 1979, the four Appellate Divisions, adopted a new rule requiring every attorney admitted to practice in New York State or who maintains an office in the State to file a statement of registration with the Office of Court Administration no later than June 1, 1979, and every two calendar years thereafter within 30 days after his/her birthday. Attorneys who were admitted to practice after April 1, 1979, had to file within 30 days of the date of their admission and again every two calendar years within 30 days after their birthday.

The rule also required than an attorney notify the Office of Court Administration within 30 days of closing an office, opening a new office, or changing a place of residence.

As of December 31, 1981, there were 72,291 attorneys registered with the Office of Court Administration. Table 94 shows the breakdown by county and department. Table 95 shows the breakdown of the date of birth by the date of admission to the bar.

Pursuant to Chapter 714 of the Laws of 1981 and the Rules of the Chief Administrator (22 NYCRR Part 118), a new registration system was instituted. Under this system every attorney admitted to practice on or before January 1, 1982 whether resident or non-resident, and whether or not in good standing, was required to file a registration statement with the Chief Administrator of the Courts no later than March 1, 1982. Every registration must include a fifty dollar fee unless the attorney certifies that he or she does not intend to engage in the practice of law during the biennial registration period.

In addition, every attorney newly admitted to practice in New York State after January 1, 1982, whether resident or non-resident, and whether or not in good standing, is required to file a registration statement within 60 days of the date of such admission.

Every attorney is then required to reregister during each alternate year thereafter, within 30 days after the attorney's birthday, for as long as the attorney remains duly admitted to the New York Bar. It is also required that an attorney notify the Office of Court Administration within 30 days of any change in the required information.

4.8 Attorney Affidavits

According to the Rules of the Appellate Division (22 NYCRR Parts 603, 551 and 1022), all attorneys must file an affidavit as a condition to proceed with an adoption. The objective of this filing is to maintain a record of attorneys and agencies involved in adoptions and to record the fees, if any, charged for their services.

Once the attorney has been contacted to represent a client in an adoption proceeding, the attorney prepares a petition requesting an adoption. When the petition is filed, a docket number is issued by the court. The attorney's affidavit is completed in duplicate by the attorney who files one copy with the court and the other copy with the Office of Court Administration. During 1981, 6,659 adoption affidavits were filed with the Office of Court Administration.

Table 87

Mental Health Information Service Activity by Judicial Department

January 1, 1981 through December 31, 1981

Judicial Department	Non-Judicial Proceedings		Applications for Release or Retention			Other Activity		
	Applications Reviewed	Contacts with Patients & Other	Patients Released	Patients Retained	Hearings Demanded	Judicial Cases	Reports to Courts	Hearings Attended
First	21,039	24,451	307	402	637	966	1,178	1,405
Second	53,439	87,497	561	5,440	2,236	7,849	6,471	6,824
Third	8,648	8,228	132	920	514	1,382	1,342	416
Fourth	20,508	13,023	507	2,668	1,241	3,932	2,965	2,615
Statewide Total	103,634	133,199	1,507	9,430	4,628	14,129	11,956	11,260

Table 88

Central Index of Post-Conviction Applications

January 1, 1981 through December 31, 1981

Type of Application	N.Y. Courts	Federal Courts	Total	Percent
Habeas Corpus	349	9	358	22.0
Article 78	1,248	3	1,251	76.9
Civil Rights	0	10	10	.6
Motion for Resentence	5	0	5	.3
Certificate of Relief from Disability	3	0	3	.2
Total	1,605	22	1,627	100.0

Table 89

Retainer Statement Filings by Month

January 1, 1981 through December 31, 1981

Month	Number of Statements of Retainer Filed
January	7,617
February	7,611
March	8,927
April	7,823
May	7,316
June	9,613
July	8,654
August	4,608
September	7,544
October	8,955
November	7,779
December	10,756
Total	97,203

Table 90

Court and Monetary Breakdown of Closing Statements

January 1, 1981 through December 31, 1981

	Supreme Court		U.S. District Court		Court of Claims†		County Court		Civil Court		City Courts		District Court		Justice Court		No Action*
Amount of Recovery	**Set-tled**	**Judg-ment**	**Set-tled**	**Judg-ment**	**Set-tled**	**Judg-ment**	**Set-tled**	**Judg-ment**	**Set-tled**	**Judg-ment**	**Set-tled**	**Judg-ment**	**Set-tled**	**Judg-ment**	**Set-tled**	**Judg-ment**	**Set-tled**
1-499	173	11	17	2	..	1	3	..	197	..	8	1	17	..	6	..	201
500-999	337	6	16	2	2	..	9	..	573	9	24	1	49	6	7	..	641
1,000-1,999	1,430	14	34	..	9	..	21	..	1,533	25	40	3	80	5	5	1	1,520
2,000-2,999	2,088	18	43	1	13	1	19	..	1,304	17	48	1	55	1	..	..	1,624
3,000-3,999	2,721	35	55	..	7	..	12	..	841	12	38	1	24	3	..	..	1,606
4,000-4,999	2,419	10	35	..	6	2	9	..	464	4	13	..	10	..	..	..	1,304
5,000-5,999	2,571	32	42	1	7	1	8	..	236	4	9	1	10	..	..	..	1,049
6,000-6,999	2,255	23	44	1	2	..	4	..	151	8	2	..	6	..	..	..	800
7,000-7,999	2,955	23	47	..	3	..	7	..	122	4	3	..	3	..	..	..	845
8,000-8,999	1,714	12	34	..	2	..	3	..	53	4	..	..	..	..	..	..	492
9,000-9,999	2,062	17	37	..	1	..	3	..	37	..	..	..	..	..	..	..	704
10,000-14,999	5,629	65	100	5	4	1	4	1	48	3	..	..	..	..	..	..	1,589
15,000-19,999	2,985	51	71	2	5	1	..	..	20	2	..	..	..	..	..	..	426
20,000-24,999	1,876	32	64	4	2	..	..	..	11	..	..	..	..	..	..	..	253
25,000-29,999	1,402	29	47	1	1	..	..	..	2	..	..	..	..	..	..	..	193
30,000-34,999	861	18	27	..	..	3	..	..	4	1	..	..	..	..	..	..	89
35,000-49,999	1,718	38	60	2	1	..	..	..	5	..	..	..	..	..	..	..	140
50,000-99,999	1,394	81	98	8	..	1	..	..	2	..	..	..	..	..	..	..	144
100,00-UP	1,223	104	138	16	..	5	..	..	1	..	..	..	..	..	..	..	66
Total With Recovery	38,413	619	1,009	45	65	16	102	1	5,604	93	185	8	254	15	18	1	13,686
No Recovery	916		80		12		6		299		12		15				3,757

NOTE: Whenever individual closing statements were filed by attorneys acting jointly in a case, each statement received was included in these tabulations. Thus, the number of statements somewhat exceeds the toal number of cases closed.

+ Includes condemnation as well as tort matters.

*Item 3 of the closing statement requires that the court and date be indicated if an action was commenced. This category includes those statements in which this item is left blank.

Table 91

RECAPITULATION OF ALTERNATIVE DISPUTE RESOLUTION PROGRAM

Thirteen Terms December 29, 1980 through December 27, 1981

I. Programs Previously Established

County	Inflow	Outflow	Pending	Demand for Trial De Novo Number	Demand for Trial De Novo Percent
Bronx	1,123	1,199	219	103	8.5
Broome	177	180	52	14	7.7
Monroe	720	771	183	82	10.6
Schenectady	129	232	143	12	0.0

II. Programs Added by the Plan

District/ County					
Ninth					
Westchester	1,052	1,522	132	106	6.9
Rockland	181	302	48	2	0.6
Dutchess	162	265	19	22	8.3
Orange	195	271	42	3	1.1
Putnam	52	39	13	9	23.0
Tenth					
Nassau	2,469	3,842	739	157	4.0
Suffolk	3,058	3,010	866	173	5.7
Third					
Albany	197	222	124	15	6.7
Rensselaer	42	103	70	8	7.7
Ulster	127	123	53	10	8.1
Fifth					
Oneida	253	275	120	7	2.5
Onondaga	613	676	206	56	8.2
Seventh					
Cayuga	29	29	9	2	6.8
Livingston	25	22	6	1	4.5
Ontario	42	47	7	9	19.1
Seneca	9	9	2	0	0.0
Steuben	46	56	11	6	10.7
Wayne	19	15	4	2	13.3
Yates	10	9	2	2	22.2
Eighth					
Niagara	158	184	64	10	5.4
New York City					
New York	5,598	5,192	1,998	530	10.2
Queens	2,742	2,791	780	272	9.7
Kings	2,067	2,251	631	255	11.3
Total New York State	21,295	23,637	6,543	1,868	7.9

Table 92

ANALYSIS OF THE OUTFLOW FROM THE ALTERNATIVE DISPUTE RESOLUTION PROGRAM

Thirteen Terms December 29, 1980 through December 27, 1981

I. Programs Previously Established

County	Hearings Completed by Single Arbitrator	Hearings Completed by Panel	Hearings Completed Total	Before Hearing Settlements and Remands	Total Outflow
Bronx	601	374	975	224	1,199
Broome	87	52	139	41	180
Monroe	336	216	552	219	771
Schenectady	24	46	70	162	232

II. Programs Added by the Plan

District/ County	by Single Arbitrator	by Panel	Total	Before Hearing Settlements and Remands	Total Outflow
Ninth					
Westchester	358	463	821	701	1,522
Rockland	71	94	165	137	302
Dutchess	90	64	154	111	265
Orange	79	86	165	106	271
Putnam	5	24	29	10	39
Tenth					
Nassau	1,677	1,275	2,952	890	3,842
Suffolk	1,439	615	2,054	956	3,010
Third					
Albany	76	64	140	82	222
Rensselaer	56	36	92	11	103
Ulster	48	37	85	38	123
Fifth					
Oneida	126	63	189	86	275
Onondaga	351	161	512	164	676
Seventh					
Cayuga	13	10	23	6	29
Livingston	6	6	12	10	22
Ontario	22	13	35	12	47
Seneca	2	4	6	3	9
Steuben	14	18	32	24	56
Wayne	7	2	9	6	15
Yates	4	2	6	3	0
Eighth					
Niagara	92	61	153	31	18
New York City					
New York	2,146	1,537	3,683	1,509	5,192
Queens	1,395	716	2,111	680	2,791
Kings	1,151	686	1,837	414	2,251
Total New York State	10,276	6,725	17,001	6,636	23,637

Table 93

ATTORNEY GRIEVANCE COMMITTEES ACTIVITY

January 1, 1981 through December 31, 1981

Items	Statewide	1st Dept.	3rd Dept.	4th Dept.	2nd & 11th Dist.	9th Dist.	10th Dist.
Matters Processed by Committee							
New Matters Received	6,474	2,257	736	1,207	730	600	944
Closed Matters Reactivated	229	0	28	168	17	16	0
Total	6,703	2,257	764	1,375	747	616	944
Disposition of Matters by Committee							
Dismissed/Rejected	5,015	1,907	591	1,253	327	260	677
Referred to Other Committee/ Agency	838	263	57	34	221	130	133
Caution	261	64	59	22	14	38	64
Admonition	210	106	12	11	27	25	29
Referred to Appellate Division	446	105	39	47	124	80	51
Court Cases							
Cases Initiated	192	54	37	29	43	14	19
Court Cases Disposed							
Disbarred	28	13	1	2	5	4	3
Resigned	10	0	1	2	6	1	0
Suspended	51	16	9	7	8	7	4
Censured	27	0	3	1	6	6	11
Dismissed	5	0	2	1	0	2	0
Reinstatement Granted	16	6	3	6	1	0	0
Reinstatement Denied	18	9	0	2	3	1	3
Other	79	34	8	3	31	2	1

Table 94

ATTORNEY REGISTRATION BY LOCATION

LOCATION	TOTAL	LOCATION	TOTAL
Albany	1,748	Otsego	62
Allegany	33	Putnam	104
Bronx	928	Queens	2,033
Broome	390	Rensselaer	194
Cattaraugus	76	Richmond	352
Cayuga	78	Rockland	440
Chautauqua	137	St. Lawrence	74
Chemung	127	Saratoga	154
Chenango	127	Schenectady	287
Clinton	68	Schoharie	27
Columbia	61	Schuyler	18
Cortland	42	Seneca	31
Delaware	50	Steuben	106
Dutchess	376	Suffolk	1,886
Erie	1,956	Sullivan	135
Essex	55	Tioga	38
Franklin	48	Tompkins	142
Fulton	58	Ulster	209
Genesee	55	Warren	116
Greene	47	Washington	39
Hamilton	6	Wayne	75
Herkimer	56	Westchester	2,744
Jefferson	89	Wyoming	30
Kings	3,124	Yates	20
Lewis	14	Outside New York State	6,809
Livingston	44	Missing County	2,978
Madison	67		
Monroe	1,699	Total	72,291
Montgomery	56		
Nassau	4,677		
New York	34,614	First Department	35,542
Niagara	252	Second Department	16,169
Oneida	351	Third Department	4,374
Onondaga	1,138	Fourth Department	6,419
Ontario	78	Outside New York State	6,809
Orange	383	Missing County	2,978
Orleans	28		
Oswego	73	Total	72,291

Table 95

ATTORNEY REGISTRATION
by Date of Birth

Date of Birth	*Total*
1958 and After	2
1952-57	9,349
1947-51	13,717
1942-46	11,039
1937-41	6,793
1932-36	5,956
1927-31	6,563
1922-26	4,818
1917-21	3,769
Before 1916	10,285
Total	72,291

Chapter 5

Education and Training Programs

Since 1962, over 24,400 judges and justices of New York State have attended seminars and training programs conducted by the Office of Court Administration through its Education and Training Office. In 1981, 1475 judges, including 649 town and village justices, attended 31 OCA-sponsored judicial programs. In addition, 20 judges attended national programs outside the State. In the area of nonjudicial training, more than 750 persons attended programs sponsored or financed by OCA.

This chapter consists of six sections: (1) judicial programs for State-paid judges; (2) town and village justice programs; (3) nonjudicial programs; (4) other programs; (5) other activities; and (6) summaries of discussions at the Crotonville Conference.

5.1 Judicial Programs For State-Paid Judges

Seminars for City, District and New York City Civil Court Judges
March 22-25, 1981
March 29-April 1, 1981
April 9-12, 1981
April 30-May 3, 1981

Judges from City, District and New York City Civil Courts were combined for the first time in a series of seminars held at Monticello, Ellenville, Liberty and Catskill, New York. Judicial conduct, civil procedure, evidentiary problems, commercial paper, family offenses, sealing of criminal records, and new legislation were discussed at all four seminars. In addition, preliminary criminal proceedings and the evaluation and settlement of personal injury cases were discussed at the two March seminars and vehicle and traffic law and sentencing the alcoholic defendant were dealt with at the two April seminars. A total of 123 judges attended the four seminars.

Seminar for County Court Judges
May 13-15, 1981

Eighty-one Judges of the County Court attended a program sponsored by the Education and Training Office at Ellenville, New York on May 13 to 15, 1981. Topics covered in lectures and panel discussions included recent developments in criminal law, criminal jury instructions, sentencing the alcoholic defendant, the use of videotape in criminal trials and new legislation.

Seminar for Surrogates
May 17-20, 1981

The 15th Annual Seminar for Surrogates was held in Cooperstown on May 17 to 20, 1981 and was attended by 36 Surrogates. In addition to the review of more than fifty recent decisions, speakers and panelists covered topics including new and pending legislation, equitable distribution, distribution of wrongful death recoveries, and estate and gift tax developments.

Seminar for Judges Assigned to Criminal Term
June 5-6, 1981

A seminar for Supreme Court and Acting Supreme Court Justices newly assigned to criminal term in New York City and their law clerks was held in New York City on June 5 to 6, 1981. Speakers covered the taking of a guilty plea, application of rules of evidence commonly at issue in criminal cases, the insanity defense, discovery, voir dire, and allocution at sentencing. Approximately twenty judges and thirty law clerks attended.

Conference of New York State Trial Judges
June 22-25, 1981

Eighty-seven judges and justices attended this annual seminar held in Crotonville, New York from June 22 to 25, 1981. The program was divided into five seminar periods. The first four periods consisted of the judges, divided into four groups, attending, on a rotating basis, discussions on recent developments in civil procedure, evidence, criminal law and procedure, and sentencing. The fifth period consisted of a lecture on alternatives to incarceration and a summation of the panel discussions. In addition, the judges attended an evening lecture on equitable distribution and non-marital cohabitation. Summaries of the panel discussions are printed at the end of this chapter.

Summer Programs for Trial Judges
July 13-16, 1981
August 10-13, 1981
September 8-11, 1981

Two hundred and fifty-four judges attended three summer programs for trial judges modeled after the Crotonville Trial Judges' Seminars. The programs were held at Lake Luzerne, New York on July 13 to 16, 1981 and August 10 to 13, 1981, and at Kiamesha Lake on September 8 to 11, 1981. Panel discussions on evidence, civil procedure, criminal procedure and sentencing were held at each. In addition, the judges attended lectures on equitable distribution and intensive probation supervision.

Family Court Workshops

September 20-23, 1981
December 3-4, 1981

The thirteenth annual workshop for Family Court Judges was held in Cooperstown, New York on September 20 to 23, 1981. Seventy-one judges attended. Presentations were made on equitable distribution, Division for Youth programs, the human leucocyte antigen blood test, the Child Welfare Reform Act, child support enforcement developments, a review of new case law and legislation, health insurance programs and the State Retirement System.

A second workshop was held in New York City on December 3 to 4, 1981 covering most of the September topics for metropolitan area judges who could not get to Cooperstown. Twenty judges attended.

Surrogates' Fall Seminar

October 12-15, 1981

A fall seminar for Surrogates was held at Lake Luzerne, New York on October 12 to 15, 1981. Panelists reviewed approximately sixty recent decisions on Surrogates Court practice, and presentations were made on structured settlements, recent legislation, and legal education in New York. Twenty-five Surrogates and eight retired Surrogates attended.

Civil Court Judges' Seminar

November 13-15, 1981

Sixty-seven civil court and housing court judges attended a seminar at Kiamesha Lake on November 13 to 15, 1981. The program included suppression motions, sales warranties, landlord and tenant law, developments in civil procedure, and insurance arbitration forums.

Orientation Seminar for New Judges

December 7-11, 1981

The annual Orientation Program for Newly-Elected and Newly-Appointed Judges was held on December 7 to 11, 1981 in New York City. This week-long program consisted of lectures on evidence, the trial judge's role, the New York State Employees Retirement System, criminal procedure, the Bench Book for Trial Judges, civil law and procedure, the administration of jurors, the role of the court reporter, inter-court relations and administrative structure, substantive criminal law, pattern jury instructions, judicial conduct, the conduct of a civil trial, and courts and the community and public perceptions. Forty-two judges attended.

Other Judicial Programs

In addition to the programs described above, the Office of Court Administration assisted several judicial associations in presenting programs for judges at the New York State Bar Association Annual Meeting in New York City in January, 1981, and provided support for educational sessions at the Annual Meeting of the Association of Supreme Court Justices at Monticello, New York in June, 1981.

Various courts, districts and judicial departments also continued to conduct educational sessions for their judges and orientation programs for their new judges in 1981.

The Office of Court Administration thanks the following people who addressed, lectured, or otherwise participated in the educational programs for State-paid judges:

Honorable Morris Aarons
Honorable Fritz W. Alexander II
Honorable Frank S. Altimari
Honorable Herbert I. Altman
Professor Joseph T. Arenson
Associate Dean Robert A. Barker
Dean Richard J. Bartlett
Honorable Joseph W. Bellacosa
Honorable John D. Bennett
Honorable Carol Berkman
Bert Blitz, Esq.
Honorable Barbara Blum
Honorable David O. Boehm
Honorable Richard J. Bookhout
Edward P. Borrelli, Esq.
Honorable Evans V. Brewster
Honorable Robert Cacace
Honorable Charles Cacciabaudo
Honorable John D. Capilli
Mr. Steven Chandler
Thomas T. Christian, Ph.D.
Honorable Lawrence H. Cooke
Honorable Donald J. Corbett, Jr.
Honorable Anthony Corso
Richard F. Coyne, Esq.
Dr. Frederick R. Davey
Honorable Arthur A. Davis, Jr.
Mr. Mark Diefendorf
Joseph Donovan, Esq.
Honorable Vincent E. Doyle
Honorable Frederick Dugan
Honorable Shanley Egeth
Honorable Herbert B. Evans
Honorable Richard Farley
Paul Feigenbaum, Esq.
Honorable Betty Friedlander
Honorable George Friedman

Honorable Bernard Fuchs
Honorable Jacob D. Fuchsberg
Honorable Louis Fusco, Jr.
Honorable Ira Gammerman
Mr. James Garrett
Honorable Bertram R. Gelfand
Professor Emeritus Milton Gershenson
Richard Godosky, Esq.
Ms. Marion H. Goldberg
Honorable Morris Goldman
Honorable Archie A. Gorfinkel
Honorable Irving Green
Peter Grishman, Esq.
Honorable Frank A. Hall
Professor Richard Harbus
Jules Haskell, Esq.
Bernard L. Heines, Jr., Esq.
Honorable Nathaniel T. Helman
Honorable Nat H. Hentel
Honorable Pierson R. Hildreth
Honorable Edward M. Horey
Honorable Otto C. Jaeger
Professor Kenneth Joyce
Honorable Edwin Kassoff
Honorable John Keane
Mr. Meldon Kelsey
Honorable Donald Kitson
Arnold Kleinick, Esq.
Ms. Rosalie Labate
Honorable Thomas V. LaFauci
Honorable Marie M. Lambert
Honorable Irving Lang
Honorable Louis D. Laurino
Honorable Leon D. Lazer
Honorable Shirley Levittan
Honorable David Levy
Bernard Londin, Esq.
Mr. Christopher Longuerira
Honorable Anthony P. LoRusso
Joseph P. Mangano, Esq.
Honorable Arthur Markewich
Honorable Frederick Marshall
Michael F. McEneney, Esq.
Honorable Edward J. McLaughlin
Honorable Peter J. McQuillan
Honorable E. Leo Milonas
Honorable James F. Niehoff
Honorable Benjamin F. Nolan
Professor Peter J. O'Connor
Honorable Louis J. Ohlig
Honorable Reginald Oliver
Professor Russell Osgood
Honorable Richard M. Palmer
Mr. William Panepinto
Karen Peters, Esq.
Honorable Norris Phillips
John Poklemba, Esq.
Professor Paul J. Powers
Professor Peter Preiser
Dean Emeritus Jerome Prince
Lester Raskin, Esq.
Honorable Bernard Reagan
Honorable William J. Regan
Honorable Peter Rosato
Honorable Ernst H. Rosenberger
Honorable Albert Rosenblatt
Honorable Louis R. Rosenthal
Honorable Harold J. Rothwax
Honorable Isaac Rubin
Honorable Gerald Saperstein
Neal Schoen, Esq.
Honorable William W. Serra
Dr. Timothy Sheehan
Professor Paul Shupack
Professor David D. Siegel
Honorable Ernest Signorelli
Honorable Robert J. Sise
Honorable John F. Skahen
Mr. Alvian N. Smirensky
Honorable Lyman H. Smith
Dr. Donald A. Snider
Honorable Nathan R. Sobel
Honorable Thomas M. Stark
Gerald Stern, Esq.
Mr. James Stothers
Mr. Ronald Stout
Honorable Paul A. Strasburg
Honorable Donald J. Sullivan
Honorable Michael A. Telesca
Robert H. Tembeckjian, Esq.
Honorable Charles Tomasello
Honorable Warren Travers
Ms. Rita Treadway
Honorable Jack Turret
Sean Walsh, Esq.
Honorable Ruth Jane Zuckerman

5.2 Town and Village Justice Training Programs

There are approximately 2,400 town and village justice positions in New York State. Because of vacancies and because some judges hold more than one position, approximately 2,100 individuals hold the office of town or village justice. Roughly eighty percent of these are not admitted to practice law in the State. New justices who are not attorneys are required to successfully complete a six-day Basic Certification Course covering the fundamentals of law and their responsibilities as judges. The Basic Course was presented once in Canton and twice each in Albany, Syracuse, and Buffalo in 1981. A total of 250 new judges attended. After completion of the Basic Course, and upon each succeeding new term of office, a non-attorney justice must complete a two-day Advanced Certification Course which covers selected legal topics in greater depth. The six Advanced Courses presented in 1981 were held in New York City, Utica, Olean, Canton, Liberty, and Plattsburgh. A total of 399 judges attended. In addition to the certification programs this year, the Education and Training Office also presented a seminar for village justices and clerks in the Tenth Judicial District on October 9, 1981 in Farmingdale, New York.

The Office of Court Administration is particularly grateful to the Honorable Eugene W. Salisbury, the Honorable Duncan S. MacAffer, and John J. Elliott, Esq., who served as the senior faculty for the certification programs, coordinated the Basic Certification Courses, and provided invaluable consultation for the program planning and delivery.

In addition, the Office of Court Administration thanks the following people for their participation in the Justice Training Program:

Michael J. Brown, Esq.
Honorable William J. Bulger
Honorable Helen Burnham
Paul J. Cambria, Esq.
Mr. Thomas J. Castner
Stephen R. Coffey, Esq.
Malcolm Coutant, Esq.
Mr. Richard Den Bleyker
Mr. David Egelston
Professor Maurice Frey
Mr. William Green
Honorable Herman Harding
Frank S. Kedzielawa, Esq.
Salvatore Martoche, Esq.
David F. Mix, Esq.
Frank Moore, Esq.
Honorable Kevin Moss
Mr. David S. Rockefeller
Larry J. Rosen, Esq.
Edward Rowley, Esq.
Neal Schoen, Esq.
James T. Scime, Esq.
Louise Tucker, Esq.
Honorable Richard Wittenburg

5.3 Nonjudicial Programs

Programs presented or sponsored by the Education and Training Office were attended by more than 750 employees at all levels of trial courts in 1981.

Court Reporters' Annual Seminar
January 24, 1981

Over one hundred Court Reporters attended this specially designed all-day seminar in New York City. The morning was spent with a panel discussion of how a Supreme Court Justice, an attorney, a co-worker and a transcriber see the court reporter's role. There was a very interactive question-and-answer period as the reporters tried to view themselves as others see them. After an exhibit of foreign and antique shorthand machines, the reporters listened to three presentations on "Trial Strategy and Jury Psychology" from the perspectives of three specialized trial attorneys, one in negligence, one in criminal trial practice, and a third in medical malpractice.

The day concluded with "A View from the Bench," a presentation by a Supreme Court Justice on how a judge views the operation of a court part.

Family Court Clerks' Annual Seminar
June 2-5, 1981

The 29th Annual Seminar of the New York State Association of Clerks of Family Courts attracted 77 participants. The program included workshops and presentations on the clerks' procedures manual, employee appraisal techniques, selection interviewing, and new practices and law in Family Court.

Surrogates' Law Association Annual Seminar
June 10-12, 1981

Forty-three members of the Surrogates' Law Association, who are attorneys working in the larger Surrogates' Courts, met at Liberty, New York on June 10 to 12, 1981. The seminar program consisted of a mixture of presentations and open discussions on a wide variety of legal, procedural and practical issues relating to the Surrogates' Court.

Supreme & County Court Clerks' Annual Seminar

July 20-23, 1981

The 23rd Annual Seminar of the Supreme and County Court Clerks was attended by 70 participants at Kiamesha Lake. A broad variety of topics covered budget preparation; juror utilization; the clerks' procedures manual; retention, destruction and microfilming of court records; new legislation; and personnel practices.

Commissioners of Jurors' Annual Seminar
September 14-16, 1981

The annual conference of Commissioners of Jurors was held in Niagara Falls, New York, on September 14 to 16, 1981. Presentations dealt with records retention and destruction, Massachusetts' one day/one trial program, jury management systems across the country, OCA's automated jury systems, time and leave grievance procedures, and statistical reporting. Thirty-eight commissioners attended.

City and District Court Clerks' Annual Seminar
September 14-16, 1981

Fifty-nine City and District court clerks attended a seminar at Niagara Falls, New York, on September 14 to 16, 1981. Workshop topics included budgeting, the clerks' procedures manual, recordkeeping systems, court employee benefits, the retirement system, statistical reporting, and the court administrative structure outside New York City.

Chief Clerks of Surrogates' Courts Seminar
September 16-18, 1981

Fifty-five chief clerks and deputy chief clerks of

Surrogates' Courts met at Niagara Falls, New York on September 16 to 18, 1981. Presentations were held on the court administrative structure outside New York City, the clerks' procedures manual, cash collection and accounting, and statistical reporting.

Personal Development Workshops
Tenth District
January 2, 1981

Forty-three employees attended a morning workshop on methods of dealing with their co-workers and the public. Assertiveness training techniques were taught in order to improve interpersonal relations among employees and between employees and the public.

"Principles of Stress Management" was a four-hour overview of many handy ways court personnel can reduce stress on their jobs and in their lives. Two dozen employees attended this workshop. Both courses were presented in Mineola.

Seventh District
April 23, 24, May 7, 8, 28 and 29, 1981

These workshops were conducted in both Rochester and Canandaigua, and 337 employees availed themselves of the offerings. The workshops offered were: Dealing with the Public; Principles of Supervision; Principles of Stress Management; Time Management; and How to Take a Written Examination.

Each course was designed not only to help employeès perform their work more effectively, but also to understand more about themselves and how to perform better in their work environments. Two courses, "Principles of Supervision" and "How to Take a Written Exam" were specifically designed to assist employees who wished to advance in their careers within the United Court System.

Third District
May 13, 1981

Twenty-nine employees attended a "Principles of Supervision" workshop designed to expand their knowledge of how they, as supervisors, might operate. Examples of the application of these principles in the daily working of the courthouse or court administrative office helped the participants to see where they might apply to their job and how they might plan to apply them.

Fifth District
May 14, 1981

The "Dealing with the Public" workshop was offered in both the morning and afternoon, in Syracuse and 47 employees participated. Details of the workshop appear above.

5.4 Other Programs

5.4.1 Judicial Programs

National Programs

The Education and Training Office sponsors and coordinates selective attendance of judicial and nonjudicial personnel at nationally recognized education programs.

Ten judges attended programs varying in length from one to four weeks at the National Judicial College facilities at the University of Nevada in Reno. One judge attended the College's core four-week program; the other nine attended shorter specialized courses dealing with evidence, criminal law, decision making, or search and seizure.

One judge attended the Annual Conference of the National Council of Juvenile Court Judges. Three judges attended the Conference of the Council of Chief Judges of Courts of Appeal.

New York was represented by three judges at the American Bar Association's Conference of State Trial Judges and by the same number of judges at the Association's Conference of Special Court Judges.

Institute for Trial Judges

The Education and Training Office provided administrative services and funding for two series of lectures established by the Institute for Trial Judges at Hunter College. The lectures are intended to provide an interdisciplinary forum stressing issues of the social sciences as they impact upon trial judges. Topics in the spring series covered testimonial privilege and fair trial; the judge's proper role in doctor-patient relations; philosophical perspectives on the criminal law; and developments in the law of property. The autumn semester dealt with the problems of enforcing federal constitutional rights in state courts; the past and future of cities; the role of the law school in lawyer competency; and research on sentencing discretion.

The New York School for Psychiatry

The Office of Court Administration assisted in obtaining nominees and funding to attend a series of seminars conducted by the New York School for Psychiatry in New York City. A group of twenty-four judges met one night a week for 12 weeks and discussed with a law professor and a psychiatrist such topics as the nature of mental illness; fitness to stand trial; the insanity defense; disposition of the insanity acquittal; involuntary civil commitment standards; commitment procedures; the right to treatment and the right to resist treatment; and the function of psychiatrists.

5.4.2 Nonjudicial Programs

The Education and Training Office administered the tuition reimbursement program for State-paid court employees again in 1981. The program was expanded to include six additional bargaining units in 1981.

5.5 Other Activities

The Education and Training Office assists the work of several committees which prepare and update publications used by the judiciary. The Committee on Pattern Jury Instruction-Civil, chaired by the Honorable Leon D. Lazer, is charged with the responsibility of keeping the Civil Pattern Jury Instructions up to date.

The Committee on Criminal Jury Instructions, chaired by the Honorable Lyman H. Smith, continued to revise drafts of the next volume which will include charges of general applicability to all crimes and will contain preliminary jury instructions and appropriate guidelines to aid in classifying multicourt indictments and in charging juries on lesser included offenses.

The Committee completed a Criminal Jury Instructions-Misdemeanor Volume which will be distributed to all judges with misdemeanor jurisdiction.

The Bench Book Committee, chaired by the Honorable Edwin Kassoff, has prepared a 1981 supplement to the Bench Book for Trial Judges, a reference work containing practical guidance on trial and courtroom procedure.

5.6 Summaries of Discussions at the Crotonville Conference

CIVIL PRACTICE LAW AND RULES

Professor Peter J. O'Connor
Fordham University School of Law
Reporter

The CPLR Panel was chaired by Professor David D. Siegel of the Albany Law School. The judicial members were Justice Frank X. Altimari of the Supreme Court of the State of New York and Supervising Judge of the Criminal Courts, Nassau County, and Acting Justice Shanley Egeth of the Supreme Court of the State of New York, New York City. I acted as reporter.

The CPLR agenda contained a variety of topics. The subjects discussed were the unavailability of "law office failure" as an excuse for defaults, expansion of the use of impleader, nunc pro tunc validation of service under CPLR 308 (5); distribution of burden of proof in complicated comparative negligence situations, use of "hold harmless" agreements to avoid the dilemma of whether a case is "contribution" or "indemnity" under G.O.L. 15-108, and judicial invalidation of "permissive counterclaim rule".

The first topic discussed was the unavailability of "law office failure" as an excuse for defaults.

CPLR 3012 (b) provides that "[i]f the complaint is not served with the summons, the defendant may serve a written demand for the complaint...." and requires that "...[s]ervice of the complaint shall be made within twenty days after service of the demand". In *Barash v. Micucci*, 49 N.Y.2d 594, 427 N.Y.S.2d 732 (1980), a personal injury action, the defendant moved to dismiss the action pursuant to CPLR 3012(b) because the plaintiff had delayed service of the complaint for a period of five and a half months after the demand. In opposition to the motion, the plaintiff offered "law office failures" as an excuse for the delay and submitted an attorney's hearsay affidavit to demonstrate a meritorious cause of action. Special Term denied the motion mainly on the ground that the defendant had not been prejudiced by the delay. Special Term held that the plaintiff had a meritorious cause of action. The Appellate Division affirmed without opinion.

The Court of Appeals unanimously reversed Special Term and the Appellate Division in an opinion by Associate Judge Gabrielli [*Barash v. Micucci*, 49 N.Y.2d 594, 427 N.Y.S.2d 732 (1980)]. The Court stated that, to avoid dismissal for failure timely to serve a complaint, a plaintiff must demonstrate the meritoriousness of his claim by evidentiary "affidavits of merit" and must show a reasonable excuse for the delay (49 N.Y.2d at 599, 427 N.Y.S.2d at 734). The Court recognized that "...a variety of... factors such as the length of the delay, the complexity of the facts underlying the plaintiff's claim and the existence of prior settlement negotiations may have a bearing..." upon whether or not the delay is reasonable [49 N.Y.2d at 599-600, 427 N.Y.S.2d at 734; see *Sortino v. Fisher*, 20 A.D.2d 25, 245 N.Y.S.2d 186 (1st Dep't 1963)]. The Court also observed that determination of such motions rests in the sound non-reviewable discretion of the lower courts; but that a determination which is an abuse of discretion is reviewable by the Court of Appeals (49 N.Y.2d at 598, 427 N.Y.S. 2d at 733). The Court held that the lower Courts' determination in *Barash* had constituted an abuse of discretion because an attorney's hearsay affidavit is insufficient proof of a meritorious claim, "office failure" does not constitute a reasonable excuse for delay as a matter of law, and absence of prejudice because of the delay is irrelevant (49 N.Y.S.2d at 599-600, 427 N.Y.S.2d at 734-35).

Justice Altimari, who led the discussion, observed that, although *Barash* is a re-affirmation of the traditional two-fold criteria governing determination of default motions, the decision represents a departure from the traditional reluctance of the Court of Appeals to review orders determining such motions [compare *Verre v. Rosas*, 47 N.Y.2d 795, 417 N.Y.S.2d 929 (1979), with *Barash v. Micucci*, 49 N.Y.2d 594, 427 N.Y.S.2d 732 (1980), and *Cohen v. First National City Bank*, 52 N.Y.2d 863, 437 N.Y.S.2d 79 (1981), and *Jamaica Buses Inc. v. Connor*, 52 N.Y.2d 868, 437 N.Y.S.2d 80 (1981), and *Merchandise Presentation Inc. v. Blumenfeld*, 52 N.Y.2d 867, 437 N.Y.S.2d 80 (1981)]. Prior to *Barash*, Justice Altimari noted, the Court of Appeals had refused to review determinations of default motions because predicated on the exercise of discretion by the lower courts, but, in *Barash* and later cases, the Court has examined such determinations to ascertain whether they constituted an abuse of discretion (ibid). Justice Altimari stated the *Barash* was also significant because of its declaration that "law office failure" is an insufficient explanation as a matter of law for a party's default.

Since *Barash,* Justice Altimari noted, the Appellate Divisions have reversed lower court vacaturs of defaults because the tendered excuses for delay were merely "law office failures" [*Shea v. City of New York,*77 A.D.2d 21. 432 N.Y.S.2d 87, *Crucilla v. Howe Richardson Scale Co.*80 A.D.2d 575, 435 N.Y.S.2d (2d Dept. 1981); *Levin v. 40 Realty, Inc.*,80 A.D.2d 515, 435 N.Y.S.2d 607 (1st Dept. 1981); *Bruno v. Village of Port Chester,*77 A.D.2d 580 430 N.Y.S.2d 13 (2d Dept. 1980)]. Justice Altimari also noted that, in reliance on *Barash,* the Appellate Divisions have refused to cure a default timely to serve a complaint [*Wolfe v. Town of Hempstead,* 75 A.D,2d 811, 427 N.Y.S.2d 490 (2d Dept. 1980)], to grant restoration to the calendar [*Shea v. City of New York,* 77 A.D.2d 21, 432 N.Y.S.2d 87 (1st Dept. 1980)], to permit untimely service and filing of a note of issue [*Crucilla v. Howe Richardson Scale Co.,* 80 A.D.2d 575, 435 N.Y.S.2d 789 (2d Dept. 1981)], to permit late service of a bill of particulars [*Levin v. 40 Realty, Inc.,* 80 A.D.2d 515, 435 N.Y.S.2d 607 (1st Dept. 1981)], and to vacate a default judgement [*Bruno v. Village of Port Chester,* 77 A.D.2d 580, 430 N.Y.S.2d 13 (2d Dept. 1980)].

Justice Altimari stated that, because of *Barash* and its progeny, it is necessary to determine which attorney caused delays, if any, are excusable. The Judges, at the conference, agreed that delays caused by fire in an attorney's office, theft of an attorney's files, an attorney's death or serious illness could constitute a reasonable excuse. Justice Altimari cautioned that, because of *Wolfe v. Town of Hempstead,* 75 A.D.2d 811, 427 N.Y.S.2d 490 (2d Dept. 1980), if an attorney's illness is the reason given for the delay, a physician's corroborating affidavit is necessary in the Second Department.

Justice Altimari noted that the Second Department permitted defendants in two cases to serve late answers upon payment by their attorneys of penalties in the amount $500 and $2,500 respectively [*Eaton v. Equitable Life Assurance Society of the United States,* 81 A.D. 2d 653, 438 N.Y.S.2d 377 (2d Dept. 1981); *Cockfield v. Apotheker,* 81 A.D.2d 651, 438 N.Y.S.2d 379 (2d Dept. 1981)]. In each case, Justice Gibbons dissented on the ground that the attorney's delay was "law office failure" within the meaning of *Barash* (ibid). The Judges at the Conference agreed that the Second Department correctly refused to treat defaults by plaintiffs and defendants on the same basis. In a typical law suit, it is the plaintiff, not the defendant, who seeks monetary relief. The impact of a default judgement against a plaintiff and a defendant is quite different. A default judgment against a plaintiff constitutes a dismissal of his action; whereas such a judgment against a defendant is equivalent to an adjudication on the merits after trial and usually requires the defendant to respond in money damages.

The Judges at the Conference noted that *Barash* and its progeny had been applied only to actions where money damages were sought. They agreed that *Barash* should not be applied to matrimonial actions because of the family relationships involved, nor to property actions because of the ownership and possessory interests involved.

The second topic on the agenda was the expansion of the use of impleader.

CPLR 1007 provides that "[a]fter the service of his answer, a defendant may proceed against a person not a party who is or may be liable to him for all or part of the plaintiff's claim against him...." Impleader is a device whereby a defendant may seek indemnification or contribution from a third party [D.Siegel, New York Practice §157 (1978)]. In the past, it was generally thought that a defendant could not negative his liability to plaintiff in the impleader complaint, and that an impleader complaint could not seek damages in an amount greater than that claimed by the plaintiff in the complaint [*See* D. Siegel, New York Practice, §§158, 164 (1978)].(§§158, 164 (1978)).

Justice Egeth, who led the discussion stated that, in *George Cohen Agency, Inc. v. Perlman,* 51 N.Y.2d 358, 434 N.Y.S.2d 189 (1980), the Court of Appeals had removed these two limitations on the use of impleader. In *Cohen,* the plaintiff sold a portfolio of insurance business to the defendant. The portfolio consisted of policies of the Continental Casualty Company. The defendant paid by giving promissory notes. The notes were dishonored when due. The defendant claimed that the policies were no longer saleable because they contravened certain New York State Insurance Department regulations. The plaintiff sued defendant on the notes for $52,528. In its answer, the defendant counterclaimed and alleged that the plaintiff had defrauded the defendant by selling it a worthless package of insurance business. The defendant sought recission or reformation of the sale or, in the alternative, *inter alia* compensatory damages in the amount of $545,000, and punitive damages of $2,500,000. The defendant impleaded Continental and claimed that it had conspired with the plaintiff to defraud the defendant. The defendant sought to recover the same damages from Continental as from the plaintiff. In its impleader, the defendant also sought indemnification or contribution from Continental in the event that it (the defendant) was found liable to the plaintiff.

The Court of Appeals sustained the impleader [*George Cohen Agency, Inc. v. Perlman,* 51 N.Y.2d 358, 434 N.Y.S.2d 189 (1980)]. It observed that the scope of impleader had been broadened over the years to avoid multiplicity of suits and circuity of actions (51 N.Y.2d at 363-65, 434 N.Y.S.2d at 192). The Court states that CPLR 1007 identifies the persons against whom impleader may be brought *viz.*, persons who are or may be liable to a defendant because of the plaintiff's claim against the defendant (51 N.Y.2d at 365, 434 N.Y.S.2d at 193). By its terms, according to the Court of Appeals, the statute does not limit the amount which can be recovered in impleader, nor does it limit the legal theories which can be asserted (*ibid*). In *Cohen*, the Court noted that the defendant's impleader sought indemnity or contribution from Continental. With respect to the defendant's claim against Continental for damages for conspiracy and fraud, the Court declared that this claim could have been asserted by the defendant against Continental in a separate action and then consolidated with the plaintiff's claim against the defendant under CPLR 602 because of common questions of fact or law. (51 N.Y.2d at 366, 434 N.Y.S.2d at 194). To deny the defendant the right to allege its damage claim against Continental by way of impleader, the Court concluded, would require the defendant tó go through "...a needless procedural dance which will arrive at the same result." (51 N.Y.2d at 366, 434 N.Y.S.2d at 194).

The Judges, at the Conference, agreed that the decision is a salutory one. It promotes New York's modern procedural policy that related claims should be litigated in the one lawsuit. Justice Egeth stated that *Cohen* will be a useful precedent in personal injury actions. He gave an example of a situation in which P is stopped for a red light and A stopped behind him. B crashes into A, who then is propelled into P. As a consequence P sues A; the latter impleads B for contribution and for A's own personal injuries and property damage. The impleader would be proper because B is a person who may be liable to A for damages claimed by P against A, and because P's claim against A and A's personal damage claim against B have common questions of fact or law.

Finally, Justice Egeth observed that impleader does not require a court order. The trial judge, however, has discretion under CPLR 1010 to dismiss the impleader claim or to sever it from the main action if the impleader will delay trial of the main action or confuse the jury.

The third topic discussed was the *nunc pro tunc* validation of service under CPLR 308(5).

CPLR 308(5) provides that personal service of the summons upon a natural person may be made "in such manner as the Court, upon motion without notice, directs, if service is impracticable..." by personal delivery, by delivery and mailing, and by substituted service [CPLR 308 (1), (2) and (4)].

In *Giordano v. McMurtry*, 79 A.D.2d 548, 433 N.Y.S.2d 583 (1st Dept. 1980), Special Term found that the summons had been accepted by a third party with the defendant's consent and validated such service *nunc pro tunc* under CPLR 308(5). The Appellate Division held that Special Term had improperly validated service *nunc pro tunc* because there was no showing that plaintiff had, before the purported service, attempted service by personal delivery, by delivery and mailing, and by substituted service. Professor Siegel observed that *Giordano* did not hold that *nunc pro tunc* validation of service under CPLR 308(5) is improper but held that, where a plaintiff seeks such validation of service, he or she must demonstrate attempts at the alternate methods required by the statute prior to the service sought to be validated *nunc pro tunc*.

The fourth topic discussed was the distribution of the burden of proof in complicated negligence cases.

In negligence actions, if the defendant claims that the plaintiff's negligence contributed to the accident, such claim is an affirmative defense to be pleaded and proved by the defendant in diminution of damages (CPLR 1411, 1412). In automobile negligence cases, if the defendant claims that the plaintiff's failure to wear a seat belt aggravated his damages, the defendant has the burden of proving this claim [*Spier v. Barker*, 35 N.Y.2d 444, 363 N.Y.S.2d 916 (1974)].

Professor Siegel stated that *Caizzo v. Volkswagenwerk A.G.*, F.2d (2d Cir. 1981), presents another burden of proof problem which is being seen increasingly in automobile negligence cases. In *Caizzo*, while driving on an expressway, plaintiff's car was struck in the rear by defendant's car. The collision caused plaintiff's car to turn over; plaintiff and his wife were thrown out of the car and injured. Plaintiff sued defendant for damages for causing the accident and Volkswagenwerk, the car manufacturer, for enhanced injuries. Plaintiff claimed that his injuries were aggravated when he was thrown through the open door of his car, and that this would not have happened if Volkswagenwerk had properly designed the door latch.

Professor Siegel noted that the issue in the case involved which party had the burden of proof with respect to plaintiff's claim that Volkswagenwerk was responsible for the enhanced injuries. Since *Caizzo* was a diversity case in a New York federal court, the law of New York would apply to resolution of the problem. However, Professor Siegel stated the issue has not yet been resolved by the Court of Appeals. The federal trial court held that the plaintiff "...need prove only...the 'fact' of enhancement--'that the defect in design was a factor in causing [some of] plaintiffs' injury and damage'"[*Caizzo v. Volkswagenwerk* F.2d (1981)]. The trial court further held that Volkswagenwerk, "...in seeking to limit its liability to the enhanced damages, had the burden of apportionment, *i.e.* it had to segregate the injuries between those caused by the collision, by the alleged design defects, and by the nonuse of seat belts" (____F.2d at____), The Second Circuit reversed the judgement for plaintiff and held that plaintiff had the burden of proving enhanced injuries (____F.2d at ____).

Professor Siegel concluded by stating that the *Caizzo* opinion is an excellent discussion of the conflicting American views with respect to this burden of proof issue.*

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*Your reporter notes that the Late Professor McCormick has an excellent discussion of the various factors utilized by American courts for the allocation of burdens of proof in McCormick, Handbook of the Law of Evidence §337 (2d ed. 1972).

The fifth topic discussed was the use of "hold harmless" agreements to avoid the dilemma of whether a case is "contribution" or "indemnification".

In *Dole v. Dow Chemical Company,* 30 N.Y.2d 143, 331 N.Y.S.2d 382 (1972), the Court of Appeals held that a defendant tortfeasor has a right to seek contribution from any other tortfeasor alleged to have participated in the tort. The *Dole* doctrine was later codified in Article 14 of the CPLR (Chapter 742 of the Laws of 1974). To encourage settlements in this type of case, Section 15-108 of the General Obligations Law was enacted [Chapter 742 of the Laws of 1974; *Mielcarek v. Knights,* 50 A.D.2d 122, 375 N.Y.S.2d 922 (4th Dept. 1975)]. Under Section 15-108, a tortfeasor, who settles plaintiff's claim against him, is discharged from further liability to the plaintiff as well as from contribution to other joint tortfeasors. The settling tortfeasor also loses his or her right to contribution from other joint tortfeasors. In *Riviello v. Raybele Tavern Inc.* 47 N.Y.2d 297, 418 N.Y.S.2d 300 (1979), the Court of Appeals held that the settlement provisions of Section 15-108 apply to contribution cases but not to indemnification cases

Professor Siegel observed that settlement in multidefendant cases by one of the defendants has become more difficult because of *Riviello.* Although such a defendant might wish to settle with plaintiff before trial, he may refuse to do so for fear of being later found liable to another defendant for indemnification. Professor Siegel suggested that a plaintiff's agreement to hold such a defendant harmless could overcome settlement reluctance. If the settling defendant were later required to indemnify another defendant, he would be held harmless by the plaintift under the agreement [*See, D'Ambrosio v. City of New York,* 79 A.D.2d 965, 438 N.Y.S.2d 224 (1st Dept. 1981) (Kupferman, J.P., dissenting).

The sixth topic discussed was judicial invalidation of the "permissive counterclaim rule". Your reporter led the discussion.

CPLR 3019(a) provides that "[a] counterclaim may be any cause of action in favor of one or more defendants ...against...a plaintiff...." By its terms, the statute permits assertion against a plaintiff by defendant of a counterclaim whether related or unrelated to the claim in the complaint. The statute permits but does not require assertion of counterclaim related to the main claim [*Contra,* Fed. R. Civ. P. 13(a)].

Although the statute thus enunciates a "permissive counterclaim rule" for New York, decisional law is to the contrary. For example, P and D have claims against each other for breach of the same contract. P sues D for breach of the contract; D asserts P's breach of contract by way of defense but not as a counterclaim. A judgment for P against D is entered with specific findings that D breached the contract but that P did not. If D uses P on the subject matter of his defense, D's action for breach of contract will be dismissed because of the collateral estoppel effect of P's judgment in the first action [*Patrick v. Shaffer,* 94 N.Y.423 (1884)]. On the other hand, if D obtains a judgment in the first action with specific findings that D did not breach the agreement but that P did, collateral estoppel would seem to dictate that D would be entitled to summary judgment against P in the second action on the subject matter of his defense in the first action. In *Batavia v. Desch* M.2d ___ , ___ N.Y.S.2d ___ (Sup. Ct., Ulster Cnty 1980) (Calendar No. 1, Spec. Term, Hughes, J.), the Court held that even though D won in the first action, the second action, in which he sought judgment on the subject matter of his defense in the first action, should be dismissed. The Court held that, when D failed to set up his defense in the first action as a counterclaim, there was an election and waiver by D. The Court ruled that a defendant should be required to assert related counterclaims because of calendar congestion and for the purpose of conserving judicial resources.

The Judges, at the Conference, were about evenly divided as to the correctness of *Batavia.* One group agreed that, in view of crowded calendars, defendants should be required to assert related counterclaims. The other group took the position that, on the facts of *Batavia,* the statute gives a defendant the choice of asserting his claim either in a counterclaim or in a separate action, and concluded that a change of New York's "permissive counterclaim rule" is for the legislature and not the courts.

EVIDENCE

Associate Dean Robert A. Barker
Albany Law School
Reporter

The Evidence panel was chaired by Dean Emeritus Jerome Prince of the Brooklyn Law School, and included the Honorable Thomas M. Stark, the Honorable Donald J. Sullivan, the Honorable Betty D. Friedlander and this reporter. The agenda consisted of a survey of recent and interesting developments in New York case law evidence together with tie-ins to the proposed evidence code being prepared by the New York Law Revision Commission.

Present Sense Impression

In *People v. Watson* (N.Y.L.J., April 10, 1981, Kopper, J.) it was held that the present sense impression exception to the hearsay rule should be applied. The Court broke new ground since this exception has never been adopted in this jurisdiction. Defendant, superintendent of an apartment building, was on trial for the murder of Marvis Carter, a tenant. The prosecutor put Mrs. Yard on the stand who testified that she was Mrs. Carter's friend and that on the evening in question she was engaged in a telephone conversation with Mrs. Carter when the latter excused herself to answer the door. When she came back she stated that the "super" had to fix a leak in the tub.

Defendant objected to this evidence as hearsay, but the Court ruled that it fit the definition contained in the proposed code as "a statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter." In addition to some precedent found in out-of-state cases involving telephone conversations with victims (*State v. Fleisher,* 286 N.W.2d 215 [Iowa]; *Commonwealth v. Coleman,* 458 Mass. 112, 115-19, 326 A.2d 387, 388-90, 74 ALR 3d 954; *McCaskill v. State,* 227 So. 2d 847 [Miss.]), the Court relied on the New York Court of Appeals' expression voiced in several cases that our hearsay rule should be applied liberally (*People v. Arnold,* 34 N.Y.2d 548; *People v. Brown,* 26 N.Y.2d 88; *Letendre v. Hartford Accident and Indemnity Co., 21 N.Y.2d 518; Fleury v. Edwards,* 14 N.Y.2d 334, 339), and on recent cases where the Court of Appeals has readily accepted the excited utterance exception (*People v. O'Neall,* 47 N.Y.2d 952; *People v. Edwards,* 47 N.Y.2d 493; *People v. Caviness,* 38 N.Y.2d 227).

The judges overwhelmingly found the evidence in *Watson* properly received and were also in favor of a modification made by the Law Revision Commission which confines applicability of the exceptions to instances where the declarant is unavailable.

Refreshing Recollection–Hypnosis

One judge felt that the use of hypnotically refreshed testimony on trial smacked of hocus pocus, was inherently unreliable, and would tend to mislead the factfinder. Nevertheless, the technique does appear to have established a foothold in this jurisdiction, although it has not been passed upon at the appellate level.

In *People v. Lucas* (107 Misc.2d 231), Justice Preminger reviewed the authorities and held the testimony admissible. The witness proposed to testify to the details of an alleged meeting held seven years earlier to discuss the arrangements for a contract murder. His memory had been refreshed during a hypnotic session held one year before the suppression motion brought by defendant. The Court noted that of the three possibilities--total exclusion of the testimony, total inclusion (the testimony to be tested on cross examination) and qualified admission--the latter was the preferable course. Other New York lower court cases, notably *People v. Lewis* (103 Misc.2d 881) and authorities cited therein, had set up nine criteria to be observed: 1) the session should be conducted by a mental health expert; 2) the hypnotist should be provided only those facts he needs to know; 3) the hypnotist should be neutral; 4) the session should be videotaped; 5) no one connected with either side should be present; 6) the subject should undergo a pre-session mental examination to assure that he suffers no disorder; 7) prior to the session the hypnotist should obtain from the subject as detailed a description of the facts as the subject can then remember; 8) the hypnotist should avoid slanting his questions through cues or adding unnecessary elements; and 9) evidence corroborative of or contradictory to statements made during the trance should be considered. (See also *People v. McDowell,* 102 Misc.2d 831).

Having thus established the state of the law in New York, the Court observed that most of these safeguards were lacking in *Lucas,* but that nevertheless the witness would be allowed to testify since his pre- and post-hypnosis statements were substantially similar and defendant's own expert witness testified that the witness was feigning a trance and would not be subject to suggestion in any event.

How does adversary go about impeaching hypnotically refreshed testimony? There is a danger that subjects under hypnosis may "confabulate," or create facts which have no basis. They may be thoroughly convinced of the truth of these facts and be unshakable on cross examination. The jury must be charged in such instances as to the dangers of hypnosis and thus be disabused of any notion that it has magical qualities that will always produce the truth.

Thirty-eight judges thought this sort of evidence should be excluded absolutely; eight would allow it in subject only to the test to cross examination; and 20 would opt for the so-called New York rule described above.

Evidence of Uncharged Crimes

Henceforth trial judges must set aside time for yet another admissibility hearing--call it the *Molineux* hearing for lack of a better term--when the prosecutor seeks to produce evidence of uncharged crimes he claims fits one of the five familiar *Molineux* exceptions, or other exceptions fashioned from time to time (*People v. Santarelli,* 49 N.Y.2d 241; *People v. Vails,* 43 N.Y.2d 364). Cautionary instructions to the jury are of little help once they have heard the question concerning the uncharged crime. "Whether some time prior to trial, just before the trial begins or just before the witness testifies will depend upon the circumstances of the particular case....The court should then assess how the evidence came into the case and the relevance and probativeness of, and necessity for it against its prejudicial effect, and either admit or exclude it in total, or admit it without the prejudicial parts when that can be done without distortion of its meaning...." (*People v. Ventimiglia,* 52 N.Y.2d 350, 362).

In *Ventimiglia* the uncharged crimes came in an unusual manner. The prosecutor's accomplice witness recounted a conversation he had with one of the defendants in which the latter explained the plan for disposing of the body and where the burial spot would be. He said they had done it before "just a couple of times." This was evidence of uncharged crimes from the lips of a defendant, but the other occasions for which they used the burial location had no relevance to the charge at hand and could not qualify as a *Molineux* exception. Neither could it be regarded as "inextricably interwoven" into the whole conversation since it was unnecessary to an understanding of the rest of the statements (distinguishing *People v. Vails* 43 N.Y.2d 364, 368). The error was harmless, however, because other, admissible statements carried implications of prior crimes having been committed at this location anyway (see 52 N.Y.2d at 361).

Evidence of Subsequent Repairs--Caprara

Evidence that defendant repaired the condition causing the accident following the accident is not admissible as an admission of negligence for the basic reason that hindsight is not a fair indication of what proper foresight should have been. Nor has it been thought fair to penalize a conscientious defendant by using the evidence of the subsequent repair against him (Richardson on Evidence, 10 ed., §168). With the liberalizing of the products liability cause of action, however (*Codling v. Paglia,* 32 N.Y.2d 330), where lack of care ceases to be an element, the courts have ruled that such evidence is admissible (*Barry v. Manglass,* 55 A.D.2d 1). Mass producers will not be hesitant to make repairs for fear that can be used as evidence. On balance, the prevention of further accidents is an outweighing consideration (*Adult v. International Harvester Co.,* 13 Cal.3d 113, 528 P.2d 1148).

In *Caprara v. Chrysler Corporation* (52 N.Y.2d 114) plaintiff's proof, *inter alia,* consisted of expert testimony that the loss of control of the car was due to excessive play in the lower right ball joint, and evidence that defendant, some four years after the accident, changed the design of the mechanism by using a plastic insert to fill the space and lessen the amount of play of the ball in the socket. The change, it was said, was made to discourage unscrupulous mechanics from inducing owners to replace ball joints prematurely. Nevertheless, if admissible, it certainly was directly relevant to plaintiff's proof of causation.

Plaintiff's theory of recovery was that there was a manufacturing defect. The case was sent to the jury on that ground. Yet the proof consisted largely of evidence of faulty design. This was troublesome since faulty manufacture--the assembling of the parts--can be due to sheer inadvertence. Design, however, requires conscious choices and thus if the design is faulty the element of negligence is very difficult to squeeze out of consideration. If the theory of recovery is really based on negligence, then evidence of the subsequent design change should be inadmissible.

That was the essence of the dissent in *Caprara.* The Appellate Division (71 A.D.2d 515) and Court of Appeals' majorities, however, ruled the evidence admissible. The careful distinctions made in the dissent were recognized, but adjured in favor of sort of a functional approach. The ball joint was put together so that there was too much play. That is assembly. The jury was told to consider that. The evidence of design change was supportive of this "manufacturing and assembly" defect theory--it added to the probability that it was this defect rather than other causes that produced the accident and therefore was relevant and material.

Much opposition was voiced to the majority's rationale in the first two groups. The third and fourth groups, however, felt this to be the sounder approach. To keep such evidence out on the basis of the web of fine distinctions that must be spun in order to separate manufacture and assembly causes from design causes within the ambit of mass production is to foster legal formulations over common sense.

Parent-Child Privilege

Several years ago in *Matter of A and M* (61 A.D.2d 426) the Fourth Department created a privilege in a case where a minor child confided in his father concerning a crime in which he had been involved. The Court ruled that the father need not divulge the conversation before a grand jury. The privilege was said to rest on the Constitutional right to privacy and the policy consideration that in a healthy society families should not be torn asunder by the forcing of such disclosures. Subsequently, in *People v. Fitzgerald* (101 Misc.2d 712) the Westchester County Court adopted and extended this privilege, again where a father was before a grand jury. Here, the child was well over the age of majority, but the Court reasoned that the parent-child relationship could not logically cease at the stroke of midnight at the end of the child's seventeenth year. Moreover, the privilege was held to be joint in the sense that the father could not alone waive it. If the son wished to preserve the privilege he could assert it even though the father was willing to testify.

It was recognized in both cases that there would be instances in Family Court where intra-family strife would not be served by the privilege (see note 9 in *Matter of A and M,* 61 A.D.2d at 435); and in *Matter of Mark G.* (65 A.D.2d 917) the Fourth Department made it clear that not just any communication would be protected. Certainly the child would have to be seeking support, advice or guidance. Thus, for instance, there would be no protection were a parent asked about the whereabouts of the child at a particular time.

The Law Revision Commission as of this writing is in the throes of formulating a draft of a statutory parent-child privilege. The version read to the judges was roundly criticized in all four sessions. That creates a lifetime privilege and makes it solely the parents' privilege when the child is under 16, but a joint privilege when the child is over 16. A large majority of judges thought there ought to be a statutory privilege, very few liked the Commission's approach, and there was roughly an even split between those who thought the privilege should only extend to the age of majority, and those who felt that age should not be a factor. In either event, most judges felt the privilege should be joint all the way through.

Specific Acts of Violence by Victims

This topic addressed the question of how a defendant, relying on the defense of self-defense, can use evidence of the victim's violent past behavior. In *People v. Rodawald* (177 N.Y. 408) it was held that evidence of the victim's character for violence was admissible to show defendant's state of mind so long as defendant knew that reputation at the time of the affray. In *People v. Miller* (39 N.Y.2d 543) it was held that the victim's prior specific acts of violence, if known to defendant, could also be introduced to show defendant's state of mind.

In *Matter of Robert S.* (52 N.Y.2d 1046) defendant desired to show the victim's specific assaultive and violent past acts--even though defendant was not aware of this behavior--to prove that in all probability the victim was the aggressor. The Court of Appeals was unwilling to adopt such a rule, sticking to the limits of *Rodawald* and *Miller*. Many of the judges were sympathetic to Judge Fuchsberg's dissent in which he argued that there was profound relevance in how the victim had acted in past similar circumstances. This view among the judges was heightened when one of them gave this example: Defendant, immediately after a minor intersection accident, is assaulted by the driver of the other car, a complete stranger. In defense of himself defendant strikes a fatal blow. Would we really want to deprive him of evidence that the victim had a quick temper and had been abusive and assaultive on other similar occasions?

Pre-trial Silence

In *People v. Rothschild* (35 N.Y.2d 355) the Court held that defendant detective's testimony that he was only investigating a bribe attempt and was not, as charged, the bribee, could be impeached by his failure to give that story at the time he was arrested. As a public officer, said the Court, he had a special duty to speak up. The U.S. Supreme Court later in *Doyle v. Ohio* (426 U.S. 610) held that a suspect, an ordinary citizen, in custody who had been given his *Miranda* warnings, could not be impeached by his post-arrest silence. He cannot be penalized for doing what he has been told he has a right to do. The New York Court of Appeals followed this in *People v. Conyers* (49 N.Y.2d 174). The U.S. Supreme Court then in *Jenkins v. Anderson* (447 U.S. 231, 100 S. Ct. 2124) held that defendant's *pre-arrest* silence can be used for impeachment purposes. Prior to arrest or custody no governmental action induced defendant to remain silent. In this case defendant failed, when he turned himself in, to state that he acted in self-defense, the story he told on the stand. Had the story been true, wouldn't it have been the natural thing for defendant to have mentioned it at the time he went to the authorities? The Supreme Court then vacated the Court of Appeals' decision in *Conyers* and sent the case back for re-evaluation of constitutional grounds in light of *Jenkins*. The Court of Appeals reaffirmed the reversal of defendant's conviction and held that state evidence rules, rather than federal or state constitutional propositions, governed. The Court ruled as a matter of law that evidence of what is now called "pretrial" silence "may have a disproportionate impact upon the minds of the jurors...and...the potential for prejudice inherent in such evidence outweighs its marginal probative worth...." (*People v. Conyers*, 438 N.Y.2d 741, April 2, 1981). This, said the Court, would be the general rule, a rule that "unusual circumstances" might obviate. There was no attempt to indicate what those circumstances might be. It was speculated at the meetings that *Rothschild* might still provide an exception, where defendant has a special duty to speak; and that where, as in *People v. Savage* (50 N.Y.2d 673), defendant *does* make a pre-trial statement and then tells a different story from the stand, the prior statement could still be used to impeach.

Attorney-Corporation Client Privilege

It has long been recognized that a corporation can possess an attorney-client privilege. The problem has been to determine in each case through which employees or agents the corporation "confers" with counsel. There has been a strong rule that only the "control group" of the corporation--those in control of the decision making processes--could engage in protected communications. Only such person could act for the corporation on the attorney's advice. To extend the rule to lower echelons would surround the corporation with a zone of silence inimical to the quest for truth and justice.

Without stating a new general rule, the U.S. Supreme Court in *Upjohn Co. v. United States* (449 U.S. 383, 101 S. Ct. 677), rejected the control group theory. The zone of silence is a fallacy since corporation employees may still be questioned by those seeking information. The fact the information may have been imparted to a lawyer does not immunize it. In this case IRS investigators who were seeking to learn of transactions between Upjohn subsidiaries and foreign governments could question the employees, but they were not entitled to short cut this by delving into the lawyers' files.

In New York we have no announced rule, control group or otherwise. Perhaps Chief Justice Burger's prescription in his concurring opinion would provide a handy guide: "...as a general rule, a communication is privileged at least when, as here, an employee or former employee speaks at the direction of the management with an attorney regarding conduct or proposed conduct within the scope of employment" (101 S. Ct. at 689).

Admission By Silence

In *People v. Egan* (78 A.D.2d 34, lv to app. denied, 434 N.Y.2d 55) the prosecution's accomplice witness testified that he was awakened by a sound whereupon James Egan and his wife Mavis appeared in the room and James said: "We blew the sucker away," and "Mavis makes the first hit woman in the world." Mavis then said she was glad it was over with and done with. This testimony came on Mavis' trial for murder, James having been tried separately and convicted. At Mavis' trial James refused to testify on Fifth Amendment grounds since apparently his case was still on appeal. His statements, as testified to, were admissible under three hearsay exceptions. First, since Mavis received James' comments without protest they could come in to show her admission by silence. Second, at least the first statement, wherein James implicated himself as well as Mavis, could be considered a declaration against penal interest. James had refused to testify and so was unavailable. Third, the statements could be considered spontaneous declarations made right after a startling event.

The discussion among the judges was concerned mostly with whether James' second statement–"Mavis makes the first hit woman..."–could be counted as a declaration against interest. The Court of Appeals in *People v. Ventimiglia* (52 N.Y.2d 350, reported supra under the heading Evidence of Uncharged Crimes) having shown its willingness to parse sentences of a continuing statement, might well consider that since James failed to implicate himself at least that part of his statement could not be counted a declaration against interest (see *People v. Maerling*, 46 N.Y.2d 289).

The final issue concerned Mavis' argument that whether or not James' statements and her response (her statement that she was glad it was over indicated she heard and understood James' statement), or lack thereof fit within hearsay exception, there was a breach of her right to confrontation. This issue has yet to be squarely resolved by the U.S. Supreme Court (see *Duttan v. Evans*, 400 U.S. 74, 80), but the New York Court of Appeals has worked up a list of hearsay exceptions which it holds escapes the bar of the confrontation clause (see *People v. Sugden*, 35 N.Y.2d 453, 460). The declaration against interest exception is not there listed; and it is debatable whether the Court later added it in *People v. Maerling, supra.*(See *People v. Piazza*, 48 N.Y.2d 151.) The Fourth Department seems to have added it to the list in *Egan*, But *Egan* is not an ideal case to test the proposition since the two other applicable exceptions–admission and spontaneous declaration–do seem to fit under the umbrella which was spread in the *Sugden* case. This multiplicity of grounds also tends to explain why leave to appeal was denied.

Prior Inconsistent Statements–Harris Rule

It is now well settled that defendant's statement, suppressed on *Miranda* grounds, may be introduced at trial to impeach defendant's exculpatory testimony (*Harris v. New York*, 401 U.S. 222). What, however, if the suppression judge made a finding not only that the warnings were not given, but also that the alleged oral statement was not even made? In *People v. Washington* (51 N.Y.2d 214) a unanimous Court held that defendant could still be asked on cross examination whether he had made such a statement. This provides a jury question.

What if defendant's prior statement were suppressed for reasons other than a *Mirando* violation? Could it be for reasons other than a *Miranda* violation? Could it be used for impeachment purposes? The U.S. Supreme Court in *New Jersey v. Portash* (440 U.S. 450) held that where defendant was promised immunity before a grand jury his grand jury testimony could not be used to impeach his trial testimony. The prior statement was truly coerced just as surely as if it had been beaten out of him. The mere failure adequately to give *Miranda* warnings does not amount to coercion and so is distinguishable. Applying these rules in *People v. Gonzales* (435 N.Y.S.2d 532) a Bronx County Criminal Term Court held that of two statements made by defendant during interrogation only one could be used to impeach. The first was the result of coercive measures and thus was barred. The second ws given some hours later and was videotaped. That too was suppressable as evidence in chief because of the absence of counsel. Absence of counsel, however, is no more coercive than deprivation of the *Miranda* warnings reasoned the Court, and thus that statement could be used to impeach under *Harris*.

Business Records–Police Report

Murray v. Donlan (77 A.D.2d 337) is another in the line of cases anchored by *Johnson v. Lutz* (253 N.Y. 124). See *Kelly v. Wasserman* (5 N.Y.2d 425), *Toll v. State of New York* (32 A.D. 2d 47), *Chemical Leaman Tank Lines v. Stevens* (21 A.D.2d 556). Here plaintiff sought to enter a non-eyewitness officer's report containing information obtained from a source as to which there was no proof of business duty and thus the document was inadmissible under the authorities just listed.

The Dead Man's Statute

Section 4519 of the CPLR, among its many complex provisions, states that where the executor, administrator, survivor, committee or other person entitled to the protection of the statute submits proof concerning a personal transaction with the deceased, he waives this protection and cannot successfully object to proof submitted by the other side in regard to the same transaction. In *Matter of Wood* (52 N.Y.2d 139) the executor brought a proceeding to discover property said to be wrongly withheld which consisted of proceeds from a bank account. He put in proof that respondents withdrew the money and that its disposition was unknown. When respondents came forward to explain that they had conferred with deceased on his sickbed concerning the money the executor objected on the basis of 4519. The Surrogate and Appellate Division majority held that he had waived the objection by producing evidence concerning the withdrawal of the money in the first place. The Court of Appeals unanimously reversed. The executor put in no evidence concerning a personal transaction with the deceased. The withdrawal of the money was, in effect, one transaction. Respondents' conversation with the deceased, even though it concerned the money, was indeed a personal transaction, but it was a second transaction and one the executor had not broached. Although no polls were taken, the Judges, few of whom were Surrogates, were largely in agreement that the strict application of the Dead Man's Statute deprived the court of valuable evidence in this case.

Witnesses Who Claim the Fifth Amendment

A person named by defendant's alibi witness as the real culprit was called to the stand by the defendant. The witness made it clear that if placed on the stand he would assert his Fifth Amendment right not to testify. Such a display from the stand, of course, is what defendant sought since it would have to raise considerable doubt as to the identity of the person who committed the crime. The trial judge ruled that defense counsel would not be permitted to put him on the stand. The Court of Appeals affirmed, following its recent determination in *People v. Sapia* (41 N.Y.2d 160, cert. den. 434 U.S. 823) that the disposition of such tactical maneuvers lies within the discretion of the trial judge. (*People v. Thomas*, 51 N.Y.2d 466). The refusal to testify might well be for reasons unconnected to the witness's involvement in the crime being tried and this nebulous relevancy is outweighed by clear prejudice to the People's case.

Defendant, in a case where the judge refuses to put such a witness on the stand, is entitled to a charge in most instances that the witness has become unavailable for reasons beyond defendant's control and that no adverse inferences may be drawn.

SENTENCING

Professor Emeritus Milton G. Gershenson
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Reporter

The Sentencing Panel was chaired by the Honorable Lyman H. Smith and included the Honorable Fritz W. Alexander II, the Honorable David O. Boehm and the Honorable Herbert I. Altman. I acted as reporter.

In view of the complexity of the subject and the limitations of the allocated time, the panel selected and presented only representative topics deemed to be of special importance.

Violent Felony Offenders

Judge Altman presented the subject of Post-Indictment Limitations and Sentencing of Violent Felony Offenders. The method of presentation was to propound a series of questions embodying some commonly-encountered fact situations for discussion and resolution by the conferees. To aid in the discussion, Judge Altman prepared, and there was distributed, a comprehensive chart, attached to this report.

(a) D, when 16, pleaded to Attempted Burglary 3d (D did not receive Youthful Offender treatment). Now, at age 25, D is again charged with Attempted Burglary 3d. Can D plead to a misdemeanor?

(b) Which of the following Violent Felonies are Armed Felonies:

1. Rape at gunpoint?
2. Robbery with a knife?
3. Firing a gun at a peace officer intending to cause serious physical injury?

(c) D, having a clean record, is charged with Robbery 1st with a knife. Can he plead to Robbery 2d? Robbery 3d?

(d) Can D, charged with forcible Rape I plead to Attemped Rape 2d?

(e) D, in the past, was convicted of a series of burglaries, all charged in one accusatory instrument, and served time following conviction of all of them. If now convicted of another burglary, can D be sentenced as a Persistent Non-Violent Felony Offender?

(f) On a hearing to determine whether D should be sentenced as a Persistent Non-Violent Felony Offender, may the court consider a voluntary confession of D if the confession was obtained by custodial interrogation but without compliance with the *Miranda* requirements? Same, if the confession was coerced and involuntary?

Weapons Offenses; Juvenile and Youthful Offenders

Justice Fritz W. Alexander II first reviewed the recent amendments to Art. 265 of the Penal Law, the so-called gun control laws, pointing out that there were three primary purposes behind the enactments: (1) to create some new offenses, (2) to restrict plea negotiations, and (3) to increase the penalties for certain offenses.

Again, some commonly-encountered factual situations were propounded for discussion and resolution by the conferees. They include, among others:

(a) The non-owner manager of a social club kept in a drawer an unlicensed gun. Is the social club his "place of business"?

(b) The widower-owner of a small grocery store in a high crime area is the sole support of his five children. He was apprehended with an unlicensed gun on his person while on the street with the day's receipts en route to the night-depository of his local bank. May he plead to a misdemeanor if within the past 5 years he was convicted of:

(1) Driving while intoxicated, an A misdemeanor under the Vehicle and Traffic Law?

(2) An A misdemeanor under the Penal Law?

(c) Does D possess a "Loaded firearm" if he has an unloaded gun in his brief case and a quantity of ammunition in his pocket if the ammunition:

(1) Is .38 calibre and the gun is a Magnum?
(2) The gun is a .38 and the ammunition is for a Magnum?

(d) D was apprehended while in the act of buying a firearm. D is charged with the felony of Attempted Possession of a Firearm; is such Attempted Possession an E Violent Felony?

Turning to the Juvenile Offender and Youthful Offender statutes Justice Alexander propounded questions based on pre- and post-indictment transfers from the Criminal Court to the Family Court. In addition, the conferees considered the following:

(a) A, 14 years, snatched a necklace off V in such violent fashion as to cause V to choke to death. B, also 14, acted as lookout for A.

(1) Can B be prosecuted for felony murder?
(2) Can A be prosecuted for felony murder if A acted alone?

The Guilty Plea and Sentencing Colloquy

Justice Lyman H. Smith pointed out the vital necessity for an adequate record to reflect a provident and a lawful plea, particularly in view of the number of appellate reversals caused by deficiencies in the sentence colloquy.

The views of the conferees were solicited as to their practices including such questions as:

(a) To what degree should the judge participate in the negotiation process? To what degree are specific promises made? To what degree must promises be kept?

(b) How is a plea to some but not all counts of an accusatory instrument to be taken?

(c) Is it desirable to question defense counsel prior to the colloquy with D? Should D be present? If so, why?

(d) Are statement forms used? If so, who prepares them?

(e) Are pre-plea probation reports available? Are they consulted?

(f) How do you assure that D is voluntarily and knowingly waiving his constitutional rights to a trial? Do you recite the title and degree of the offense in your acceptance of a proffered plea? Do you warn about future consequences?

(g) When do you explore possible conflict of interest in cases involving multiple offenders?

(h) Do you make a record of the reasons offered by the prosecutor and considered by you for accepting the plea?

(i) Who asks the questions-you alone, or you and the prosecutor, or the prosecutor alone?

Disparity of Sentences

Justice David O. Boehm conducted a lively dialogue with the panel participants on the dissatisfaction, if any, with traditional sentencing, emphasizing several major areas of controversy. They included:

(a) What are the assumptions underlying the present indeterminate sentence system? What are the alleged objectives of indeterminate sentencing?

(b) Where, truly, does the discretion lie? In the legislature, the prosecutor's office, in the counsel, in the judge, in the parole board?

(c) Is disparity of sentence due to the system, the individual judge, the individual defendant, the parole board?

(d) Is it an argument against indeterminate sentencing that (1) it encourages disparity, (2) it puts a "veil of secrecy" over the actual jail time to be served, (3) it permits the media reporting pre-trial proceedings to recite possible maxima as if they were mandatory minima, and (4) that "good time" provisions provide an alternative method to achieve flexibility of jail time and also helps keep a prison "cool?"

(e) To what degree is the controversy over disparate sentencing confined to sentences perceived by the media and the lay public as excessively inadequate, or does it also extend to sentences perceived to be excessively harsh?

(f) What are the merits of the suggested alternative sentencing methods? Justice Boehm concluded by reviewing representative reports and studies, including that of the Governor's Commission and the report of the Criminal Justice Section of the N.Y. State Bar Association, chaired by Justice Boehm.

In sum, while there was a consensus that disparity exists, there was none on how to eliminate it.

CRIMINAL LAW AND PROCEDURE

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Reporter

This year the Criminal Law and Procedure Panel format was structured differently. Whereas in past years the panelists would select recent cases dealing with novel or difficult problems and use them as springboards for discussion of both law and practice, the bulk of the time this year was devoted to two aspects of criminal trial practice considered by the persons in charge of planning the session to be most in need of discussion. These were: (1) motion practice (primarily suppression motions); and (2) jury selection (primarily the judge's role in voir dire). Approximately 45 minutes at the end of each panel was devoted to a presentation of recent cases. However, in view of the changed format, this period was aimed more at a survey of recent developments than at a selective discussion of any particular area of the law.

The portion of the program devoted to motion practice was conducted by the Honorable Ernst H. Rosenberger, Justice of the Supreme Court, First Judicial District. The Honorable Frederick M. Marshall, Justice of the Supreme Court, Eighth Judicial District conducted the portion of the program on jury selection. I had the honor of chairing the session and of presenting the general survey of recent developments in the time remaining after discussion of the two major topics.

Motion Practice

Justice Rosenberger focused upon the benefits to be achieved by more closely adhering to the requirement that suppression motions be made in writing and set forth sworn allegations of fact to support the grounds therein urged. (CPL, §710.60). He noted that a practice seems to have grown up in many courts of permitting the defense to move for suppression orally and then automatically conducting a hearing. While this procedure is authorized where a defendant moves to suppress an alleged involuntary statement, it is not authorized for other suppression motions.

Recognizing that in a busy court, pressed to move cases, enforcement of a requirement for written motions could be perceived as simply another cause of delay, Justice Rosenberger opined that the time saved through denial of hearings where allegations are legally insufficient would outweigh the time wasted by automatically holding hearings simply upon unsubstantiated demand. In this connection, he drew attention to the opinion of the Second Department in *People v. Roberto H.*, 67 AD2d 549 (1979). There, the Court pointed out (*id.*, at 551):

> Too often it appears that such motions are made for no reason other than the belief of defendant's attorneys that they are obligated to make every suppression motion provided by statute.... In addition, the papers in support of such motions frequently consist only of conclusory allegations of unlawful conduct by law enforcement authorities. Neither the interests of the defendants themselves nor the interests of justice and the judicial system are served by such unwarranted and inappropriate motion practice.

Justice Rosenberger then went on to point out that requiring motion papers would not only save time by obviating the need for many suppression hearings, but also would save the time of having to wait until the suppression minutes are transcribed before commencing trial (since the testimony at the hearing is *Rosario* material). A related saving is, of course, the actual dollar cost of transcription (usually a public charge for both sides).

Virtually all of the judges polled in the various groups indicated that they usually receive formal motion papers, but many of the judges indicated that the papers consist of stereotyped "canned" allegations. Thus, the issue for discussion became whether judges should be giving closer scrutiny to the allegations. Some sentiment was expressed to the effect that it would be unfair to require the defense to come up with specific allegations because many times the illegality can only be shown by examination of persons under the control of the prosecution. Notwithstanding this, the judges who expressed that feeling seemed impressed by the argument that greater specificity would protect the record by preventing defendants from raising grounds for suppression on appeal that had not been presented to the hearing court. In this connection the First Department's opinion in *People v. Winship* was cited and used to illustrate both the need for precise identification of the issue at the hearing and a reminder that the First Department, as well as the Second Department, has condemned the practice of affording hearings without requiring compliance with statutes. 78 AD2d 514 (1980).

Replies by the prosecution came under critical scrutiny as well. Justice Rosenberger pointed out that the statute requires a denial by the prosecution and if no such denial is included in a situation where the defendant's papers are adequate on their face, then the motion should be granted without a hearing. *People v. Grunden*, 42 NY2d 214 (1977) was utilized as the centerpiece of this discussion. That case involved a motion to dismiss an indictment (CPL §210.45) for failure to comply with the statutory speedy trial requirement (CPL, §30.30). The Court rejected the argument that the failure of the prosecutor to controvert is not the equivalent of a concession and laid down the following standard (42 NY2d at 217):

> Generally hearings are not available merely for the asking. We therefore hold that a court may summarily grant a motion to dismiss unless the papers submitted by the prosecutor show that there is a factual dispute which must be resolved at a hearing. That is not to say that the opposition papers need be as detailed as they would have to be to defeat a motion for summary judgment. Indeed, there may well be instances where the information alleged may be solely within the knowledge or possession of the defendant or based upon information and belief, as is permitted by statute, so that in opposing the motion the prosecutor could simply ask the court to put the defendant to his proof.

Justice Rosenberger pointed out that subsequent to the *Grunden* opinion, the Court further clarified the above standard by pointing out that an oral statement in the courtroom would be sufficient where no papers or records in opposition are submitted (*People v. Dean*, 45 NY2d 651) and that it also would be sufficient merely to state in the People's affidavit that "the allegations surrounding the statement are controverted". *People v. Weaver*, 49 NY2d 1012.

The timing of motions also was discussed and in this connection Justice Rubin of the 9th Judicial District pointed out that the forty-five day period specified for the Omnibus Motion (CPL §255.20) is an "outside" time limit. Judges who set return dates for motions need not allow the full forty-five days. Many judges in subsequent sessions appeared to find this to be an aspect of calendar control that they had not previously focused upon.

Justice Rosenberger concluded his presentation with a review of the structure and form of suppression hearings, the requirement for findings of fact and the differing burdens of proof on the various suppression issues.

Jury Selection

Justice Marshall opened the discussion on jury selection by drawing attention to Rule 20.10 of the Rules of the Administrative Board (now Part 11 of the

Rules of the Chief Judge). This Rule, he pointed out goes far in explaining the role of the trial judge in the voir dire and the restrictions upon counsel. Justice Marshall stated that prior to commencement of jury selection, he makes it a practice to give a copy of the rule to each counsel, even where counsel alleges that he has received copies on previous occasions and is familiar with the rule. He explained that his rationale for this is to impress upon counsel that he means to adhere strictly to the procedure and to bring to the forefront the restrictions that will be imposed upon questioning.

Parsing the restrictions, Justice Marshall first noted that the opportunity for counsel to question prospective jurors is limited to "any *unexplored* matter." He pointed out that it is the role of the judge to initially question the jurors as to their qualifications. This can be facilitated by the use of a questionnaire filled out in advance requesting commonly sought information and some forms of questionnaires were reviewed.* Armed with the information in the answers to the questionnaires, the judge can pinpoint possible disqualifying factors and save time that would be taken up through exploration in questions by counsel. Having once explored the matter, the judge then is justified in cutting off counsel's attempts to recover the same ground (unless, of course, there is a genuine issue to be pursued by reason of an answer given to the judge's questions).

Next, Justice Marshall focused upon the restriction in the Rule prohibiting "questions as to jurors' knowledge of or attitudes regarding rules of law, such as the presumption of innocence, the burden of proof, reasonable doubt and the meaning and purpose of an indictment or information." Extensive discussions followed concerning whether a realistic or practical line of distinction could be drawn between this prohibition and the acknowledged right of counsel to ask a prospective juror whether he or she would have any difficulty in following the instructions of the court on these matters (see *People v. Boulware*, 29 NY2d 135, 142 [1971]). A number of judges expressed the opinion that the time spent in redirecting counsels' efforts in this area would exceed the time lost in permitting counsel to ask the questions.

Justice Marshall then pointed out that in presiding over the voir dire process the trial judge should remember that voir dire is "not a selection process." It is instead an opportunity to explore for bias. Accordingly, the questioning of jurors on attitudes regarding other matters (such as premarital intercourse) should be curbed. He stated that he makes this clear to all lawyers before commencement of voir dire and he finds that he has little difficulty in enforcing the restriction.

By far the highlight of the session was the discussion about the new practice of placing sixteen jurors in the box for voir dire rather than twelve. At the time of the session this could only be done where counsel consented, but subsequent to the session an amendment to Criminal Procedure Law §270.15 was enacted to make the practice part of the normal voir dire procedure (L. 1981, Ch. 301, eff. January 1, 1982). There was a consensus of opinion that this procedure was not only a time saving device but also was better for both sides because of the advantage of having advance knowledge of remaining jurors when exercising peremptory challenges.

Various judges in attendance described the technique and the variations that they practiced. There was an extensive interchange of ideas and all seemed to benefit from the discussions.

Another subject that evoked discussion concerned the pros and cons of having the voir dire transcribed. There seemed to be a consensus that there is no need to do so but that it should be done if counsel so requests. A number of judges stated that even in the absence of a request, they have their remarks and rulings transcribed.

Justice Marshall then turned to the proper procedure to be followed with respect to obtaining witness lists from the parties for the purpose of questioning the jurors as to possible relationships with parties and witnesses. Here it was noted that a court can avoid the issue of whether the defendant intends to take the stand by questioning the jury about the defendant in the context of his role as a defendant rather than as a potential witness. Attention of the groups was called to the recent decision of the Court of Appeals in this area (*People v. Boyd*, 53 NY2d 912 [5/12/81]) wherein the Court opined "that names of prospective jurors should be obtained from attorneys outside the presence of the jury and presented to prospective jurors during voir dire without attribution to either party, and that absent a request by defendant the trial judge may make no comment concerning defendant's right not to testify." It also was noted in this connection that a defendant may have no obligation to disclose the names of witnesses prior to hearing the prosecutor's case (*cf., Brooks v. Tennessee*, 406 US 605 [1971]).

Finally, Justice Marshall discussed recent developments in the filtering out of racial bias in the selection of jurors. This discussion involved two matters: (1) the circumstances under which counsel should be permitted to probe prospective jurors for racial bias (noting the recent Supreme Court opinion in *Rosales-Lopez v. United States*, 451 US 182, 101 S.Ct. 1629); and (2) the problem of use of peremptory challenges to remove members of a certain ethnic group from the jury (noting the decision of the Second Department in *People v. Thompson*, 79 AD2d 87, 435 NYS2d 739 [1981]). The discussion on these matters was brief and limited only to noting the statements and holdings in the cases.

Recent Developments

In the time remaining, I covered recent developments in case law. This involved the new "grab area" rule laid down in *New York v. Belton,* ____ US ____, 101 S.Ct. 2860, a discussion of *Robbins v. California,* ____ US ____, 101 S.Ct. 2841 and other cases in that area. During the presentation I stressed the implications of *Michigan v. Summers,* 452 US 692, 101 S.Ct. 2587, pointing out that it may lead to a whole new doctrinal approach on the issue of seizure without probable cause to arrest.

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*A sample of one of the questionnaires discussed is annexed to this report as an appendix.

I distributed a summary of the cases dealing with New York's *Donovan, Arthur, Hobson* no waiver in the absence of counsel rule and the spontaneous declaration exception and in the context of this summary we reviewed the most recent developments reflected in the cases of *People v. Kazmarick,* 52 NY2d 333; *People v. Bartolomeo,* 53 NY2d 225 and *People v. Miller,* 53 NY2d 710. Additionally, we discussed the spontaneous statement holdings and focused upon *People v. Stroesser,* 53 NY2d 648, including the analysis of the adequacy of the findings made, tying that back to the presentation made by Justice Rosenberger concerning suppression motions.

People v. Cohen (52 NY2d 584) was used as a springboard for a brief review of the law relating to sufficiency of indictments and the use of a bill of particulars and, in this connection we covered *People v. Iannone,* 45 NY2d 589; *People v. Fitzgerald,* 45 NY2d 574; *People v. Mackey,* 49 NY2d 274; and *People v. Calbud,* 49 NY2d 389.

The attention of the judges was called to the change in the stress to be placed upon the requirement of technical inclusion when considering whether one crime is a lesser included of another for the purposes of charging the jury. *People v. Miguel,* ____ NY2d ____. In this connection the holding that driving while impaired is not a lesser included of the driving while intoxicated blood alcohol offense (Vehicle & Traffic Law, §1192 [2]) in *People v. Brown,* ____NY2d ____was mentioned as well as the *Miguel* holding that assault third degree (Penal Law, §120.00) is not a lesser included of robbery second degree (as defined in Penal Law, §160.10 [1] and [2(a)]) or felony assault (as defined in Penal Law, §120.05 [6]).

APPENDIX

Sample Juror Questionnaire

An Explanation of Jury Selection in a Criminal Case

Listed on the other side of this sheet are questions frequently asked during jury selection. Please be prepared to answer them as a group. If your answer to any question is "No", simply ignore it. The judge will ask you if you have any "Yes" answers to any of the questions. If so, please give any information that the question calls for.

When you have completed your answers to the 18 listed questions, the judge will then say, "Would you please tell us something about yourself". In response, please state your marital status; the number and ages of your children; your own and your spouse's occupation and place of employment; the general area in which you live, such as, Amherst, Kenmore, South Buffalo, East Aurora, etc. (your street and number are not necessary); whether you own or rent your home; membership in organizations, clubs and societies; education; military service; and leisure time activities.

Thereafter, counsel for each side will have a few questions to ask you.

Neither the judge nor the lawyers want to pry pointlessly into your personal life. Rather, they seek to determine your qualifications to serve on this particular jury. If any question seems to you to be personal in nature, you may, if you wish, give your answer privately in the judge's office. Questions relating to your knowledge of or attitudes regarding rules of law are not permitted.

1. Have you ever served as a trial juror before this year? If so, where, when and was it a civil or criminal case or both?
2. Have you ever served on a Grand Jury? If so, where and when?
3. Have you ever been involved in a civil lawsuit (auto accident, unpaid bill, contract dispute, etc.)?
4. Have you ever been a defendant in a criminal case other than traffic?
5. Have you or any of your relatives, friends or acquaintances ever been the victim of a crime (home or business broken into; property stolen; held up; assaulted; etc.)?
6. Have you ever been a witness to a crime?
7. Have you or any of your relatives, friends or acquaintances ever been a police officer or employed in any area of law enforcement, including the district attorney's office and the sheriff's office?
8. Have you ever testified under oath in any kind of proceeding in a courtroom or elsewhere?
9. Do you have any unfavorable opinions or impressions about lawyers, judges, courts or police officers because of personal experiences or for any reason at all?

10. Do you now have of have you ever had any special interest in law reform, prison reform or court reform?

11. Do you have any personal, family or business problems which would make it difficult for you to serve as a juror in this case?

12. Do you have any physical or medical problems (hearing or sight impairment, diet, medication, etc.) which would make it difficult for you to serve as a juror in this case?

13. Would you have any difficulty in following the instructions of the court on questions of law?

14. Do you know the judge, the lawyers, the defendant, any of the persons whose names were mentioned previously in relation to this case, or any of the other jurors who are present in the courtroom?

15. Do you know anything about this case from newspaper stories or any other source?

16. Have you formed any opinion as to the guilt or innocence of the defendant?

17. Do you know of any reason why you could not be fair and impartial in this case?

18. Is there any reason at all why you would not want to serve as a juror in this case?

Chapter 6

Legislation

The Office of Counsel is the principal representative of the Unified Court System in the legislative process. It is responsible for developing the judiciary's legislative program and for providing the legislative and executive branches with analyses and recommendations concerning pending measures which may have an impact upon the operations of the courts and the judicial process. It also serves a liaison function with bar association committees, judicial associations and other groups, public and private, with respect to changes in court-related statutory law.

Deputy Counsel staff the Chief Administrator's advisory committees on civil practice, criminal procedure and family law. These committees formulate legislative proposals in their respective areas of expertise for submission to the Chief Administrator. When approved by the Chief Administrator, they are transmitted to the Legislature, in bill form, for sponsors and legislative consideration.

The advisory committees also analyze legislative proposals periodically during the legislative session. Their recommendations are submitted to the Chief Administrator, who communicates with the Legislature on such matters in the form of legislative memoranda. During the 1981 session, 192 legislative memoranda prepared by Counsel's Office were filed with sponsors and the appropriate legislative committees. In addition, Counsel to the Governor was furnished with analyses and recommendations on 285 bills which had passed the Legislature and which were awaiting executive action.

Counsel's Office also is responsible for drafting legislative measures required by the administrative office for the courts, including budget requests, adjustments in judicial compensation and measures to implement collective bargaining agreements negotiated with court employee unions pursuant to the Taylor Law.

The Counsel's Office consults frequently with individual legislators, the professional staffs of legislative committees and the Governor's Counsel in support of the judiciary's legislative program and to provide technical assistance in the development of court-related proposals initiated by the executive and legislative branches.

The following measures proposed by the Office of Court Administration were enacted into law at the 204th session of the State Legislature:

Chapter 34. This chapter amends section 52 of the Judiciary Law to require publication of rules of the Court of Appeals in the State Register. [Senate Bill 1932. Effective 3/30/81]

Chapter 35. This chapter amends section 484 of the Judiciary Law (unauthorized practice of law) to conform its provisions to chapter 706 of the Laws of 1979. [Senate Bill 1933. Effective 3/30/81]

Chapter 68. This chapter adds a new section 545 to the Family Court Act to eliminate impermissible gender references with respect to parental obligations of support in filiation proceedings. [Chapter 68. Effective 1/1/82]

Chapter 168. This chapter amends section 460.50 of the Criminal Procedure Law to authorize a stay of judgment pending the appeal of a denial of a motion to vacate a judgment. [Senate Bill 2245. Effective 6/2/81]

Chapter 180. This chapter amends section 30 of the Town Law and section 3-312 of the Village Law to require notice to the Chief Administrator of the Courts whenever vacancies are filled in the offices of town and village justices. [Assembly Bill 5507. Effective 9/1/81]

Chapter 247. This chapter amends section 170.50 of the Criminal Procedure Law to authorize local criminal courts to inspect grand jury minutes and dismiss prosecutors' information. [Assembly Bill 5436. Effective 1/1/82]

Chapter 258. This chapter amends section 5004 of the Civil Practice Law and Rules to increase the rate of interest payable upon civil claims, verdicts and judgments to 9 percent. [Assembly Bill 5419. Effective 6/25/81]

Chapter 301. This chapter amends section 270.15 of the Criminal Procedure Law to permit the seating of 14 prospective jurors in the voir dire examination. [Assembly Bill 4838. Effective 1/1/82]

Chapter 303. This chapter repeals section 70.05 of the Penal Law, amends section 70.20, and section 715-b of the Executive Law to require the commitment of all juvenile offenders to the custody of the Division for Youth. [Assembly Bill 5434. Effective 7/22/81]

Chapter 355. This chapter amends section 4533-a of the Civil Practice Law and Rules to make itemized bills and invoices not in excess of $1500 admissible as prima facie evidence. [Senate Bill 6542. Effective 6/29/81]

Chapter 459. This chapter ratifies and implements the fiscal provisions of a collective bargaining agreement between the Unified Court System and the Bookbinders and Identification Officers Negotiating Unit; appropriates $56,000. [Assembly Bill 1962. Effective 7/7/81]

Chapter 460. This chapter ratifies and implements the fiscal provisions of a collective bargaining agreement between the Unified Court System and the Buffalo Negotiating Unit; appropriates $60,000. [Assembly Bill 1963. Effective 7/7/81]

Chapter 527. This chapter amends section 506 of the Judiciary Law, section 697 of the Tax Law, and section T46-197.0 of the New York City Administrative Code to establish procedures for the use of mailing lists of income taxpayers as a source of names for prospective jurors. [Senate Bill 5179-A. Effective 9/15/81]

Chapter 555. This chapter ratifies and implements the fiscal provisions of a collective bargaining agreement between the Unified Court System and the Law Assistants Association Negotiating Unit, New York City; appropriates $1,740,000. [Senate Bill 6916. Effective 7/15/81]

Chapter 560. This chapter ratifies and implements the fiscal provisions of a collective bargaining agreement between the Unified Court System and the New York City Administrative, Clerical and Support Negotiating Unit; appropriates $14,200,000. [Senate Bill 7045. Effective 7/15/81]

Chapter 766. This chapter amends section 35 of the Judiciary Law to equalize the compensation rates of assigned counsel and law guardians. [Senate Bill 4942. Effective 9/1/81]

Chapter 815. This chapter ratifies and implements the fiscal provisions of a collective bargaining agreement between the Unified Court System and the Citywide Law Assistants of the Civil, Criminal and Family Courts Negotiating Unit; appropriates $250,000. [Senate Bill 7030. Effective 7/27/81]

Chapters 816 and 817. These chapters resolve an impasse in collective negotiations between the Unified Court System and the Joint Council Negotiating Unit; appropriates $36,000,000. [Senate Bills 7031, 7052. Effective 7/29/81]

Chapter 819. This chapter ratifies and implements the fiscal provisions of a collective bargaining agreement between the Unified Court System and the Yonkers Negotiating Unit; appropriates $510,000. [Senate Bill 7042. Effective 7/27/81]

Chapter 944. This chapter ratifies and implements the fiscal provisions of a collective bargaining agreement between the Unified Court System and the Glen Cove and Long Beach Negotiating Unit; appropriates $220,000. [Senate Bill 6830. Effective 7/31/81]

Chapter 1029. This chapter ratifies and implements the fiscal provisions of a collective bargaining agreement between the Unified Court System and the New York City Administrative Services Negotiating Unit; appropriates $490,000. [Senate Bill 7188. Effective 11/11/81]

Chapter 1030. This chapter ratifies and implements the fiscal provisions of a collective bargaining agreement between the Unified Court System and the New York City Law Librarian Negotiating Unit; appropriates $210,000. [Senate Bill 7189. Effective 11/11/81]

Chapter 1031. This chapter ratifies and implements the fiscal provisions of a collective bargaining agreement between the Unified Court System and the New York City Court Reporters Negotiating Unit; appropriates $5,940,000. [Senate Bill 7190. Effective 11/11/81]

Bills proposed by the Office of Court Administration which did not become law during the 1981 Session include:

Senate 1931/Assembly 3358. This measure would amend section 434 of the Judiciary Law to eliminate the unnecessary distribution of official law reports.

Senate 3213/Assembly 3371. This measure would amend section 148-a of the Judiciary Law and CPLR 3403 (a) to implement recommendations of the Ad Hoc Committee on Medical Malpractice Panels.

Senate 2448-A/Assembly 3673-A. This measure would amend CPLR 3222, 6001 to abolish civil arrest in the enforcement of money judgments.

Senate 2238-A/Assembly 5428. This measure would amend CPLR 3101, 3117 to broaden the category of health care providers who may be examined before trial.

Senate 2239/Assembly 654. This measure would amend CPLR 7803, 7804 to clarify jurisdiction of special term in Article 78 proceedings involving substantial evidence issues.

Senate 2240/Assembly 5061. This measure would amend CPLR 5601 to require the dissent of two justices of the Appellate Division for an appeal to the Court of Appeals.

Senate 2241/Assembly 3360. This measure would amend CPLR 6313 to require a court to determine whether notice should be given the defendant in an application for a temporary restraining order.

Senate 2242/Assembly 3359. This measure would amend CPLR 8001 to increase attendance fees payable to witnesses.

Senate 2243/Assembly 6441. This measure would amend CPLR 2103 to extend to 5 days the time period for measuring service where papers are served by mail.

Senate 3504. This measure would amend the unified Court Budget Act to authorize the alteration of collective bargaining units by PERB.

Senate 1934/Assembly 3363. This measure would amend CPLR 8201-8204 to increase costs awarded in civil actions.

Senate 5223-B/Assembly 7510-A. This measure would amend section 1055 of the Family Court Act to require petitions for extension of placement to be filed 60 days prior to expiration of period of placement.

Senate 1935/Assembly 7511. This measure would amend the Family Court Act to clarify procedures involving the disposition of fingerprints, palmprints and photographs of juveniles.

Senate 1154/Assembly 3372. This measure would amend section 2 of the Court of Claims act to permanently authorize 36 additional judges of the court.

Senate 2246/Assembly 5063. This measure would amend CPL 450.50 to permit the prosecution of indictments in extraordinary cases.

Senate 4399/Assembly 6158. This measure would amend CPL 660.20, 670.10 to expand grounds for the use of conditional examinations of witnesses.

Senate 2247/Assembly 5064. This measure would add a new Article 695 to the criminal Procedure Law to establish procedures for securing identification orders.

Senate 2248-B/Assembly 4838. This measure would amend CPL 200.90 to permit bills of particular upon demand.

Senate 3215/Assembly 5065. This measure would amend CPL 710.60 to authorize summary dismissal of factually unsupported motions to suppress statements.

Senate 6048/Assembly 6442-B. This measure would amend CPL 290.10 to permit a court to reserve decision on a motion for a trial order of dismissal.

Senate 3216/Assembly 5066. This measure would amend CPL 270.10 to require the presiding judge to conduct the voir dire examination.

Senate 3217/Assembly 5067. This measure would amend CPL 710.40 to authorize a hearing upon a motion to suppress during the trial.

Senate 6512. This measure would amend the Criminal Procedure Law to establish procedures for obtaining warrants of arrest prior to the commencement of a criminal action.

Senate 6513/Assembly 655. This measure would amend CPL 10.40 to authorize official forms.

Senate 3218/Assembly 5429. This measure would amend CPL 460.20 to require that permission to appeal to the Court of Appeals be sought from an Appellate Division justice who participated in hearing the appeal.

Senate 5551/Assembly 5418. This measure would amend CPL 270.20 to reduce the number of peremptory challenges.

Senate 3219/Assembly 6443. This measure would amend CPL 710.70 to permit waivers of appeals of denials of motions to suppress evidence.

Senate 3220/Assembly 5430. This measure would amend CPL 240.40 to expand discovery of nontestimonial evidence.

Senate 3221/Assembly 5431. This measure would amend CPL 310.10 to authorize the temporary separation of a deliberating jury, with consent of the parties.

Senate 6531/Assembly 2237. This measure would amend the Penal Law to clarify the definition of bribery and related crimes.

Senate 1153/Assembly 3674. This measure would amend section 722-b of the County Law to permit review by the Appellate Division of assigned counsel fees and disbursements.

Senate 3222/Assembly 5433. This measure would amend CPL 725.10 to clarify provisions governing the release of grand jury minutes involving juvenile offenders.

Senate 896/Assembly 5437. This measure would amend CPL 190.40 to clarify law of immunity for grand jury witnesses who give nontestimonial identification evidence.

Senate 6515/Assembly 5435. This measure would amend CPLR 3215 to clarify provisions relating to notice to defendants in actions arising out of consumer credit transactions.

Senate 6585/Assembly 7678. This measure would amend the Family Court Act and Education Law to transfer jurisdiction over the special education needs of handicapped children from the Family Court to local school districts.

Senate 3223/Assembly 5506. This measure would amend CPLR 7503 to provide that issues of fact which arise upon an application to compel or stay arbitration shall be tried by the court without a jury.

Senate 6543/Assembly 5783. This measure would amend CPLR 7502 to make the provisional remedies of attachment and the preliminary injunction available in Article 75 arbitration proceedings.

Senate 4844/Assembly 5508. This measure would amend the Judiciary and Real Property Tax Laws to establish a hearing examiner program to expedite resolution of real property tax assessment review proceedings.

Senate 3833-A/Assembly 6444. This measure would amend section 39(b) of the Judiciary Law to authorize an increase in State funding to local governments that provide security services to the courts.

Senate 6946/Assembly 8959. This measure would repeal section 110(j) of the New York City Civil Court Act which requires a cross-index numbering system indicating actions brought in connection with buildings in New York City.

1982 Report

of the

Advisory Committee on Civil Practice

to the

Chief Administrator of the Courts

of the

State of New York

February 2, 1982

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Introduction

The members of the Committee are Sheila L. Birnbaum, Chairperson, William D. Eggers, John T. Frizzell, Hyman W. Gamso, Paul S. Graziano, Robert T. Greig, Raymond W. Hackbarth, James J. Harrington, Edward J. Hart, Richard B. Long, John A. Murray and David D. Siegel. During the past year, Professor David D. Siegel, after illustrious, productive and innovative service as Chairman since 1979, resigned as Chairman, owing to manifold commitments as teacher and commentator on New York civil practice. On appointment of the Chief Judge, the Chair is now occupied by Professor Sheila L. Birnbaum, a distinguished practicing member of the bar, at present on leave from New York University School of Law where she is Professor of Civil Procedure. The Committee is privileged to have Professor Siegel continue as an invaluable member. Dean Joseph M. McLaughlin resigned from the Committee, and from the deanship of Fordham University Law School, to become a Judge of the United States District Court, Eastern District of New York, in the company of two former Committee members, the Honorable Jack B. Weinstein and Honorable George C. Pratt.

There are four Parts to our Report.

Part I discusses the Study on Disclosure.

Part II discusses the dispositions of the Committee's 1981 proposals and submissions.

Part III sets forth the Committee's 1982 recommendations with explanatory notes.

Part IV summarizes the Committee's ongoing projects and tentative plans for future study and review, other than the Study on Disclosure, which is discussed in Part I.

In addition to recommending its own proposals on civil practice in the courts, the Committee reviews and comments on numerous civil procedure bills from other sources, on request of the Legislature. This report, however, is not appropriate for summarizing such evaluations.

The Committee wishes to acknowledge the continuous aid and assistance of its counsel, William A. Bulman, Jr. and John P. Brosnan of the Office of Court Administration.

Part I Report on Disclosure Study

One of the most significant areas of the CPLR which has not received systematic and overall study since the enactment of the CPLR in 1962 is Article 31 governing disclosure. In addition, CPLR 3042 governing the procedure for bills of particulars is in need of major revision, in order to eliminate long-standing and rampant abuses.

An early study on disclosure was undertaken in 1965 for the CPLR Advisory Committee, since renamed the Advisory Committee on Civil Practice, by Professor David D. Siegel, the Committee's Chairman from 1979 to 1981, and still a member. Through the years, piecemeal changes in Article 31 have been effected on recommendation of the Committee, particularly in relation to the taking and use at trial of depositions of physicians, the conduct of oral depositions, the signing of depositions, the use of depositions, and the disclosure and production of documents and things for inspection, testing, copying or photographing.

In 1979, the Committee felt there was a need for an updated study of the Disclosure Article as well as the provisions governing bills of particulars.

Hon. William P. McCooe, a distinguished Justice of the Supreme Court of New York State and Robert T. Greig, Esq., an able and dedicated member of the Committee, at the Committee's request agreed to study this area in light of the experience of the bar and bench with the disclosure provisions of both the CPLR and the Federal Rules of Civil Procedure ("FRCP"). In the intervening months, the Committee has devoted a great amount of time and effort to the consideration and discussion of the extensive proposals and the supporting comments. As this Report is distributed, the Committee is still at work on a final draft which, it is hoped, will be submitted to the Legislature later in the 1982 session as a study bill.

During the arduous process of analysis and revision, the Committee considered the problems that would arise from either too extensive or too limited disclosure. The Committee, in reaching a consensus, has considered the differing and at times conflicting viewpoints of both plaintiffs and defendants concerning the scope of discovery in a broad range of cases. The experience of the Committee, composed largely of practicing lawyers, gained during our long labors on this project, suggests that the proposed revisions of the disclosure provisions should be a subject of extensive study and comment, not only by legislators, but by bench, bar and the academic community, to ensure that all interested persons have had the opportunity to comment.

From the outset, the two major questions before the Committee were: (1) to what extent should the philosophy or substance of the FRCP be incorporated into New York practice, and (2) to what extent, if any, should the specific language of the FRCP be adopted.

During the latter half of 1981, as the drafts and comments were beginning to take final shape, the majority of the Committee favored (1) a general liberalization of disclosure; (2) a codification of recent New York case law; (3) a broadening of disclosure of expert witnesses; (4) greater statewide uniformity in disclosure procedures; (5) elimination of the "adequate special circumstances" requirement for deposing non-party witnesses; (6) a notice procedure to obtain information as to the names of experts retained for trial and the anticipated substance of the experts' testimony; (7) a curtailment of expensive and time-consuming motion practice; (8) and the general use of sanctions, such as the payment of costs and reasonable attorney's fees, against parties and their attorneys who attempt to misuse the disclosure process.

The following necessarily abbreviated and superficial summary of the Committee's discussion will give some indication of the difficult and time-consuming process engaged in by the Committee in reaching a consensus.

During the course of the Committee's work, some members expressed reservations about adopting the federal approach to disclosure or the specific language contained in the FRCP because (1) much of the present CPLR language is well understood by the bar, and has been construed adequately by New York courts; (2) a need to preserve procedural consistency between the Supreme Court and courts of more limited monetary jurisdiction where many small actions are brought that do not require broad disclosure; (3) the bar would be forced to rely on a new body of voluminous Federal decisional law; and (4) there might well be a substantial increase in motion practice in order to test the scope of any revisions based on the FRCP.

Countering the above arguments, other members pointed out that (1) only those sections of the CPLR that have created substantial problems for the courts and bar would be amended by the proposed draft; (2) federal philosophy and language would be adopted only where it had proved superior to the present CPLR procedures; (3) procedural consistency between the Federal courts and the New York Courts would prove to be a boon to the bar and avoid forum shopping; (4) lower court acts could be amended to restrict disclosure in smaller actions; (5) abuses of disclosure could be prevented by protective orders, greater judicial supervision and the broader use of sanctions; (6) the bar would quickly become familiar with applicable federal decisional law on discovery; and (7) any initial increase in motion practice to test the new provisions likely would be succeeded by a reduction in the number of motions under the draft provisions.

Much time was spent in attempting to draft specific language in order to avoid confusion and minimize motion practice. All were aware of the problems which might be created by merely paraphrasing federal terminology. Moreover, problems arose when sections which were based on their federal counterpart stood beside unamended sections, or when a mix of both federal and CPLR styles appeared in partially amended CPLR sections. Problems of consistency within the "seamless web" of Article 31, correct cross-references and stylistic unity dogged the Committee at every turn.

After repeated revisions, these and similar roadblocks were cleared away. As a result of extended dialogue a bill representing a basic consensus of the Committee took shape.

Salient and representative proposals of the tentative final draft before the Committee prior to the distribution of this Report would effect changes in the following areas:

1. The Scope of Disclosure (CPLR 3101, 3106, 3120, 3122, 3130, 3123).
II. Sanctions (CPLR 3103, 3124, 3126, 3127).
III. Bills of Particulars (CPLR 3042).

The essential points in each of the foregoing categories, as embodied in the key provisions of the tentative final draft, may be summarized as follows:

I. The Scope of Disclosure

The preamble and subdivision (a) of CPLR 3101 would be amended to permit disclosure of "relevant" matter by "any person". This change reflects the broad interpretation given to the existing language "material and necessary" by the Court of Appeals in *Allen v. Crowell-Collier Publishing Co.*, 21 N.Y.2d 403 (1968). The amendment conforms to the standard that is generally applied in practice. See *Hoenig v. Westphal*, 52 N.Y.2d 605, 608 (1981); *Prink v. Rockefeller Center, Inc.*, 48 N.Y.2d 309, 314 N. 1 (1979). The amendment would also clarify the fact that disclosure is not limited to information and materials which would be admissible as evidence at trial.

The existing enumeration of persons subject to disclosure would be eliminated, since the amendment would permit the disclosure of relevant matter by any person, without the need for a showing of "adequate special circumstances."

Under the current language in Section 3101(a) (4), there has been considerable disagreement about the showing of "adequate special circumstances" that will warrant disclosure of information from nonparties (e.g. *Cirale v. 80 Pine St. Corp.*, 35 N.Y.2d 113, 116 (1974); *Mogollon v. South African Marine Corp.*, 80 A.D.2d 636 (2nd Dept. 1981); *Kenford Co., Inc. v. County of Erie*, 41 A.D.2d 586 (4th Dept. 1973); *Pascoe v. Long*

Island Railroad Co., 44 A.D.2d 829 (2d Dept. 1974); *Scaduto v. Himmel*, 90 Misc.2d 92 (Sup. Ct., Queens Co., 1977). Under the standard most frequently applied, the mere statement by an attorney that he needs a deposition in order to prepare fully for trial has been held to constitute a sufficient showing of "special circumstances." *Gerstein v. New York Hospital*, 81 A.D.2d 632 (2d Dept. 1981); *Jones v. Wissenbach*, 80 A.D.2d 962 (3d Dept. 1981); cf. *Tuncbilek v. McGrath*, 80 A.D.2d 760 (1st Dept. 1981). *See* 3A Weinstein - Korn - Miller, N.Y. Civ. Prac. ¶3101.32. The procedure applicable to disclosure from nonparties under Rule 3101(a) (4) has also been the subject of controversy and has fostered considerable motion practice. The courts have reached contrary results as to whether a preliminary motion is required in every case, e.g. *Bonito Maritime Corp. v. St. Paul Mercury Ins. Co.*, 68 A.D.2d 864 (1st Dept. 1979, concurring opinion); *Post v. Merrill Lynch, Pierce, Fenner & Smith*, 79 A.D.2d 558 (1st Dept. 1980); *Kurzman v. Burger*, 98 Misc.2d 244 (Sup Ct., N.Y. Co., 1979), or whether it is proper to proceed by subpoena and notice, e.g. *McNulty v. McNulty*, 81 A.D.2d 581 (2d Dept. 1981); *Bush Homes, Inc. v. Franklin Nat'l Bank of Long Island*, 61 Misc.2d 495 (Sup. Ct., Nassau Co., 1969).

These provisions require amendment. The Committee believes that the notice and subpoena procedure is preferable to requiring a motion and further believes that disclosure should be permitted against all nonparties having information relevant to the prosecution or defense of a civil action. Although the amendment removes the standard of "material and necessary" in the opening paragraph of section 3101(a) and the standard of "adequate special circumstances" in section 3101(a) (4), the Committee believes that adequate safeguards against abuse remain in the power of the court under section 3103(a) to make a protective order "to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or other prejudice to any person or the courts." On the premise that trial attorneys generally will use the disclosure devices in a responsible manner, the amendment would shift the burden of making the motion from the party seeking disclosure to the party or nonparty witness opposing it. The Committee believes that this amendment will reduce motion practice, with the associated demands on judicial resources.

Subdivision (d) would be amended to expand and clarify the scope of pretrial disclosure in two areas which have been a source of many problems in practice. Subdivision (d) (1) would be amended to provide that a party is entitled to obtain the identity of persons that another party expects to call as expert witnesses at trial and information concerning each such expert's expected testimony. Subdivision 3101(d) (1) currently allows pretrial disclosure of the opinions of an expert prepared for trial only in very limited circumstances. In the opinion of the Committee, experience in New York under this rule has confirmed the observation made by the Advisory Committee on the Federal Rules of Civil Procedure in its notes to the 1970 amendments to the federal rules that "a prohibition against discovery in information held by expert witnesses produces in acute form the very evils that discovery has been created to prevent." As amended, subdivision (d) (1) would incorporate the substance of the present federal rule on the discovery of experts expected to testify at trial. The procedure for obtaining disclosure would be any of the procedures abailable for obtaining information from a party (e.g., a request, interrogatories). As under the federal rule, the amendment would enable the parties to conduct the basic disclosure regarding experts without court intervention, but would not preclude further disclosure by court order in appropriate circumstances and with appropriate protection against misuse of the disclosure process. It is contemplated that broader disclosure by experts under subdivision (d) (1) (ii) would be permited only for compelling reasons.

The amendment of subdivison (d) (2) would similarly expand the scope of pretrial disclosure of materials prepared in anticipation of litigation or for trial, although such disclosure would continue to be permitted in only fairly narrow circumstances. As is the case with subdivision (d) (1), subdivision (d) (2) follows the federal rule.

Thus, these proposed provisions under subdivision (d) would enable parties to initially conduct disclosure of experts by a proposed request and response procedure or interrogatories without court intervention, but would not preclude further disclosure by court order under limited circumstances and with appropriate protection against abuse.

New subdivision (g) of CPLR 3101 would explicitly allow disclosure of the identity and location of all persons, such as eye and notice witnesses, having knowledge of any disclosure matter. This provision would overrule those New York decisions holding that the work product rule, which would be retained intact in subdivision (c), applies to the names and addresses of witnesses located by an attorney in the course of an investigation conducted in preparation for trial. *See Sayas v. Morales*, 45 A.D.2d 610 (2d Dept. 1974).

The CPLR does not contain a provision comparable to FRCP 26(e) explicitly requiring a party under certain circumstances to supplement or amend his responses to disclosure requests. New subdivision (h) of CPLR 3101 would incorporate the substance of the federal rule, which the Committee believes establishes a reasonable balance between the need to maintain the integrity of responses to disclosure requests and the need to avoid imposing on a party a burdensome obligation to review and update on a continuing basis responses to disclosure requests. New subdivision (h) would impose on a party a continuing duty to furnish the party who made a disclosure request with information obtained after the response if the response was incorrect when made or the response is no longer correct and complete, and the circumstances are such that a failure to supplement the response would be materially misleading.

A new subdivision (d) would be added to Rule 3106 permitting a party to specify in the first instance, the particular officer, director, member or employee of a corporation or other entity the party seeks to depose. This provision is intended to prevent the needless delay and expense which occurs when a person other than a natural person produces for deposition an individual lacking knowledge of the facts in issue.

Rule 3120(a) (2) would be amended to eliminate the requirement that items requested for inspection be "specifically" designated. This requirement has been restrictively interpreted by some courts and often a party is required to take a deposition in order to obtain sufficient information to enable them to designate the requested items with the required specificity. *See, e.g., King v. Morris,* 57 A.D.2d 530 (1st Dept. 1977); *Rios v. Donovan* 21 A.D.2d 409 (1st Dept. 1964). Rule 3120 would be amended to require parties to describe each item they request for inspection or discovery with reasonable particularity. The Committee believes that a party who can reasonably identify a requested item or category of items should not have to conduct a deposition in order to establish the specific identities of the requested items. If a party objects to a request for discovery on the ground that it is unduly burdensome, includes materials that are not discoverable, or is otherwise improper, the party should state the objection pursuant to Rule 3122 rather than seeking shelter behind a claim of insufficient designation.

Rule 3122 would be amended by eliminating the requirement that objections to requests for production of documents or for physical or mental examination be made by motion. A party who objects to a notice of inspection or physical examination need only serve a response which states with reasonable particularity the reasons for each objection. This amendment is intended to reduce the volume of motion practice in this area. The Committee believes that this procedure will encourage parties to resolve disputes concerning such requests without court intervention. However, if a dispute is not resolved, the party seeking discovery may move for an order compelling discovery pursuant to Rule 3124 and may also recover the costs of such a motion under Section 3127.

The provisions for the use of interrogatories would be substantially amended. In the first instance, the use of interrogatories would be broadened by eliminating the present restriction that interrogatories may not be used in property or personal injury actions resulting from negligence or wrongful death if a deposition is taken without a court order. Interrogatories could therefore be served in any case. However, written interrogatories and a demand for a bill of particulars could not both be served without a court order.

The time to answer or object to an interrogatory would be extended from 10 to 30 days after service of the interrogatories. Moreover, a party who is served with interrogatories would not have to move to strike an improper interrogatory. A revised provision would require the party who objects to an interrogatory to state the reasons for the objection with reasonable particularity. Such objections would have to be signed by the attorney for the party making them. The party serving the interrogatories could then move for an order compelling responses to the interrogatories under Rule 3124 or for an order under Rule 3126 if the objections were considered to be improper or insubstantial.

The Committee believes that this revised procedure would substantially limit motion practice in this area.

II. Sanctions (CPLR 3103, 3124, 3126, 3127)

The Advisory Committee also is considering a general recasting of the penalties available for abuse of disclosure and improper failure to disclose pursuant to either a court order or a notice to disclose. This area tentatively would be governed by a revised rule 3124 (failure to disclose; motion to compel disclosure), an unchanged section 3126 (penalties for refusal to comply with order or to disclose) and a new section 3127 (award of costs and expenses of motions). Under the scheme being considered for recommendation, revised rule 3124 would provide, in substance, that if a person fails to respond to or comply with any request, notice, interrogatory, demand, or order under Article 31, except a notice to admit under section 3123, the party seeking disclosure may move to compel compliance or a response. An evasive answer or incomplete answer will be deemed a failure to comply.

It now is contemplated that section 3126 should remain substantially unchanged since the Committee believes that this section, which makes available the penalty of preclusion where there is a refusal to comply with an order to disclose or a wilful failure to disclose pursuant to a properly served notice, is now functioning adequately. The Committee believes that section 3126 would cover a situation where a party fails to properly supplement disclosure as would be required by proposed new section 3101(h).

The most innovative recommendation that is under consideration by the Committee in the area of penalties is the enactment of a new section 3127 governing the award of costs and expenses of motions. The new section would provide that if a motion is granted under section 3103 (protective orders), rule 3124 (failure to disclose; motion to compel disclosure), or section 3126, the court shall require the party or person whose conduct necessitated the motion, or the attorney advising such conduct, or both, to pay to the moving party the costs and reasonable expenses, *including attorney's fees,* incurred in obtaining the order, unless the court finds that the opposition to the motion was substantially justified or excusable or that other circumstances make an award of costs and expenses unjust. New section 3127 would be even-handed, however, in respect to all parties, because it also would provide that if a motion under the previously mentioned provisions is denied, the court shall require the moving party or the attorney advising the motion, or both, to pay to the party or person who opposed the motion the costs and reasonable expenses, including attorney's fees, incurred in opposing the motion, unless the court finds that the making of the motion was substantially justified or excusable or that other circumstances make an award of costs and expenses unjust.

Several significant features of this proposal are: (1) costs and reasonable expenses on a motion will include reasonable attorney's fees, (2) costs and expenses may be awarded against a party or the attorney or both, depending on the circumstances, (3) the court *shall* award costs and expenses on motions unless, in its discretion, there is good cause not to do so, and (4) costs and expenses will be awarded equitably, reimbursing the party who is the victim of unnecessary or meritless motions as well as the party who unnecessarily is required to make a motion that should not have been needed but was made necessary by unreasonable conduct of another party.

The Committee believes that this provision will reduce unnecessary motions relating to disclosure with concomitant saving of lawyer's time and judicial time and a considerable saving of expense to litigants.

III. Bill of Particulars (CPLR 3042)

The proposed amendments in CPLR 3042, which governs the bill of particulars procedure, and which the Advisory Committee contemplates recommending as a separate companion bill to the disclosure bill, would be designed to eliminate long-standing and rampant abuses.

The most habitual and frequent offender is the attorney who serves a bill only after a conditional order of preclusion is obtained. The courts are inundated with motions to preclude for failure to serve a bill. Innumerable adjournments follow until a conditional order of preclusion is entered. If the order is disobeyed, another motion follows. To cure this major problem, CPLR 3042(c), (d) and (e) might be amended. The proposals under tentative consideration would require the demanding party to put the defaulting party on written notice, after the expiration of an initial 20 days, that a bill has not been served, and that upon failure to comply within 30 days, the defaulting party will be automatically precluded and deemed in default without application to the court. (CPLR 3042(c)). Thereupon, the defaulting party could move, within a reasonable time, to vacate the default on a showing of justifiable excuse. Upon determination of the motion, the court may require the defaulting party or the attorney advising him, or both, to pay the reasonable costs and expenses, including attorney's fees, caused by the failure to furnish a bill of particulars, unless the court finds that the default was substantially justified or excusable or that other circumstances make an award of costs and expenses unjust, and the court may impose such other terms as are just. (CPLR 3042(c)). If the automatically precluded party fails to move in a reasonable time for relief, or even though moving timely, if such party fails both to show justifiable excuse for the default and to present an affidavit of merits, the party is absolutely precluded (CPLR 3042(d)). Such measures, including the provision for award of attorney's fees, appear to the Committee to be justified by the prevalence of the abuse to be corrected, so wasteful of judicial resources and so burdensome to litigants.

The less frequent offender is the attorney who serves unreasonable demands, unduly burdensome or palpably improper. To curb this abuse, CPLR 3042(a) and (b) might be amended. A party served with such a demand would be unable or unwilling to furnish a bill, and would accordingly move to vacate or modify the notice within 20 days of receipt (CPLR 3042(a)). Costs and expenses might be imposed upon the party who served the demand, unless the court finds that the conduct of the demanding party was substantially justified or excusable, or that circumstances make the award of costs and expenses unjust (CPLR 3042(h)). The failure of a party who receives a burdensome or improper demand to move to vacate or modify the demand pursuant to CPLR 3042(a) might constitute a waiver of objections to the bill if preclusion procedures are initiated.

It is contemplated that with the extension of the time for complying with the demand from 10 to 20 days (CPLR 3042(a)), together with the provisions for sanctions (CPLR 3042(d), (h)), the number of motions now made in bill of particulars practice might be substantially diminished, a sorely needed benefit to the unified court system, the bar and litigants generally.

However, the bill of particulars has not yet been reviewed by the Committee in the same depth as disclosure. After the disclosure bill draft is decided upon, the bill of particulars will be the subject of intense study before a recommendation is made final.

Part II Disposition of 1981 Recommendations

1. CPLR 308, CPLR 3215(e), (f).

This bill, which relates to additional notice of default judgment in actions based on consumer credit transactions, did not pass in 1981 and is resubmitted by the Committee in 1982. It appeared on pages 146 through 148 of the Third Annual Report of the Chief Administrator of the Courts and on pages 149 through 150 of this Annual Report, together with discussion of the bill's purpose and the circumstances which prompted its submission.

2. CPLR 2103(b) (2).

This bill, which would extend the time for service of papers by mail on an attorney, failed to pass in 1981 and is resubmitted again this year. It appeared on page 148 of the Third Annual Report of the Chief Administrator of the Courts and on pages 150 through 151 of this Annual Report, together with comment.

3. CPLR 3101(a) (3), 3117(a) (4).

This amendment would broaden the category of health care personnel subject to pretrial deposition and the use of such depositions in the trial, without a showing of special circumstances. It did not pass in 1981 and is being submitted in revised form in 1982. The amendment and Committee comment on it appeared on pages 148 through 149 of the Third Annual Report of the Chief Administrator of the Courts. The revised proposals, which would amend only CPLR 3117(a) (4), appear with comment on page 151 of this Annual Report.

4. CPLR 5004.

This bill, which appears on pages 149 through 150 of the Third Annual Report of the Chief Administrator of the Courts, was designed to increase the rate of interest payable upon claims, verdicts and judgments from six to nine percent.

The amendment was enacted by Chapter 258 of the Laws of 1981.

5. CPLR 5250, 3222(b) (1), 6001.

Having failed to pass at the 1981 session of the Legislature, this purely technical amendment to strike obsolete references to civil arrest, abolished in 1979, is resubmitted this year and appears on page 152 of this Annual Report. The same matter appears on page 150 of the Third Annual Report of the Chief Administrator of the Courts.

6. CPLR 5601(a).

This amendment is designed to curtail appeals as of right to the Court of Appeals in order to permit the Court to select more cases of importance through the appeals by permission procedure. This would reduce the number of appeals now clogging the Court's calendars many of which do not involve significant issues of law, while allowing the Court properly to concentrate on eliminating lower appellate court conflicts and addressing only significant questions. This bill did not pass in 1981 and is resubmitted in 1982. The amendment with comment appears on pages 151 through 152 of the Third Annual Report of the Chief Administrator of the Courts and on pages 152 through 153 of this Annual Report.

7. CPLR 6313(a)

This amendment would facilitate the giving of informal notice of applications for temporary restraining orders, where feasible and practicable, thus encouraging the courts to require such notice. The bill, which failed to pass last year, appeared with comment on pages 152 through 153 of the Third Annual Report of the Chief Administrator of the Courts. It is resubmitted, appearing with comment on pages 153 through 154 of this Annual Report.

8. CPLR 7502(c).

This bill, which would add new subdivision (c) to CPLR 7502, to make the provisional remedies of attachment and preliminary injunction available in Article 78 proceedings, failed to pass last year. It is resubmitted this year and appears with comment on pages 154 through 155 of this Annual Report. Slight revisions have been made in last year's bill which appears with comment on pages 153 through 154 of the Third Annual Report of the Chief Administrator of the Courts.

9. CPLR 7503(d).

This amendment, which would direct that the trial of issues of fact arising on an application to compel or stay an arbitration be conducted without a jury, failed to pass last year. The amendment, which appears with comment on pages 154 through 155 of the Third Annual Report of the Chief Administrator of the Courts, is resubmitted by the Committee as set forth, with comment on pages 155 through 156 of this Annual Report.

10. CPLR 7803(4), 7804(g).

This bill, which appears with comment on pages 141 through 142 of the Second Annual Report of the Chief Administrator of the Courts and on pages 155 through 156 of the Third Annual Report, proposed two amendments: (1) to clarify which questions the Supreme Court is to answer in an Article 78 proceeding before transferring the case to the Appellate Division for review of the substantial evidence question; (2) to clarify that only evidence taken under oath is reviewable under the substantial evidence question. The bill failed to pass in 1980 and 1981, apparently because of the confusing merger in one bill of two amendments at best only tenuously related. In 1982, the Committee, in order to eliminate any confusion, has addressed each of the foregoing issues in two separate bills, set forth and discussed on pages 156 through 157, and on pages 157 through 158 of this Annual Report.

11. CPLR 8001(a).

This bill, which would increase attendance fees and travel expenses payable to witnesses, failed to pass last year and is submitted again this year. The bill and comment appear on page 156 of the Third Annual Report of the Chief Administrator of the Courts, and on page 158 of this Annual Report.

12. CPLR 8201-8204.

This bill, which would increase costs awarded in civil actions, failed to pass last year and is resubmitted again this year. The proposal, with comment, is set forth on pages 156 through 158 of the Third Annual Report of the Chief Administrator of the Courts and on pages 158 through 160 of this Annual Report.

Part III 1982 Recommendations*

1. CPLR 308; 3215(e), (f).

The Committee recommends the repeal of the last paragraph (the paragraph which carries no number) of CPLR 308, in relation to additional notice in certain cases before a default judgment is taken, and the transfer of the substance of the provision, expanded and clarified, into CPLR 3215.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to additional notice of default judgment in an action arising out of a consumer credit transaction and to repeal certain provisions thereof relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The last unnumbered paragraph of section three hundred eight of the civil practice law and rules, is REPEALED.

§2. Subdivision (e) of section thirty-two hundred fifteen of such law and rules, as amended by chapter three hundred forty-four of the laws of nineteen hundred seventy-seven, is amended to read as follows:

(e) Proof. On any application for judgment by default, the applicant shall file proof of service of the summons and the complaint, or a summons and the complaint, or a summons and notice served pursuant to subdivision (b) of rule 305 or subdivision (a) of rule 316, and proof by affidavit made by the party of the facts constituting the claim, the default and the amount due. Where a verified complaint has been served it may be used as the affidavit of the facts constituting the claim and the amount due; in such case, an affidavit as to the default shall be made by the party or his attorney. When jurisdiction is based on an attachment of property, the affidavit must state that an order of attachment granted in the action has been levied on the property of the defendant, describe the property and state its value. Proof of mailing the notice required by [section three hundred eight of the civil practice law and rules] *subdivision (f), where applicable,* shall also be filed [where such notice is required].

§3. Subdivision (f) of section thirty-two hundred fifteen of such law and rules, as amended by chapter seven hundred twenty of the laws of nineteen hundred sixty-eight, is amended by adding a new paragraph three to read as follows:

3. (i) When a default judgment based upon nonappearance is sought against a natural person in an action arising out of a consumer credit transaction, as defined in subdivision (f) of section 105, an affidavit shall be submitted that additional notice has been given by or on behalf of the plaintiff at least twenty days before the entry of such judgment, by mailing a copy of the summons by first-class mail to the defendant at his place of residence in an envelope bearing the legend "personal and confidential" and not indicating on the outside of the envelope that the communication is from an attorney or concerns an alleged debt. In the event such mailing is returned as undeliverable by the post office before the entry of a default judgment, or if the place of residence of the defendant is unknown, a copy of the summons shall then be mailed in the same manner to the defendant at the defendant's place of employment if known; if neither the place of residence nor the place of employment of the defendant is known, then the mailing shall be to the defendant at his last known residence.

(ii) The additional notice may be mailed simultaneously with or after service of the summons on the defendant. An affidavit of mailing pursuant to this paragraph shall be executed by the person mailing the notice and shall be filed with the judgment. Where there has been compliance with the requirements of this paragraph, failure of the defendant to receive the additional notice shall not preclude the entry of default judgment.

(iii) This requirement shall not apply to cases in the small claims part of any court or to any summary proceeding to recover possession of real property or to actions affecting title to real property.

§4. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.*

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*NOTE: Contained here are only those additions and amendments initiated by the Committee, or acted upon by the Committee after outside request. Committee input lies behind other bills, usually in a consultive capacity.

*NOTE: - The last undesignated paragraph of CPLR 308, to be repealed by this bill, relates to the additional notice required to take a default judgment in an action against a natural person based upon nonpayment of a contractual obligation. New proposed paragraph 3 of subdivision (f) of CPLR 3215 governs the additional notice requirement in consumer credit transactions, and supersedes the repealed provision.

Comment

This proposal would clarify, improve and relocate the CPLR provisions which mandate that a notice of default judgment, in addition to that contained in a summons, be served on a defendant who is a natural person in an action arising out of a consumer credit transaction.

The proposal would repeal the unnumbered last paragraph of CPLR 308 and transfer its contents to CPLR 3215(f) as a paragraph 3. Since the purpose of this provision is solely to assure that an additional notice will be given to the defendant before a default judgment may be taken against him, the proper place for it is in the default judgment provision, CPLR 3215. Placed as it was in CPLR 308, the CPLR's basic provision on summons service, it has had to be read innumerable times, unnecessarily, by attorneys interested only in summons service.

The proposal does not alter in any essential aspect the protection against sewer service which the present law, enacted by Chapter 344 of the Laws of 1977, provides.

The language of the 1977 legislation, although salutary in intent, has given rise to technical problems or is otherwise inappropriate in some respects, and would be improved by the recommended changes, as follows:

1. The application of the provision to actions for nonpayment of a contractual obligation would be changed to those arising out of a consumer credit transaction. This change is consistent with the purpose of the provision to protect against sewer service, which is rare in contract actions except those arising out of consumer credit transactions.

2. Actions affecting title to real property would be excepted. Title companies are justly apprehensive that, in such actions, the requirement to give additional notice could be troublesome in that inadvertent failure to do so allows vacatur of the default judgment, thus generating challenges to title many years after entry.

3. In conformance with general practice, provision would be made for service of the additional notice by the employee of an attorney, as well as by the party or his attorney, as at present.

4. It would be provided that the additional notice may be mailed not only after, but also simultaneously with service of process. The latter phrase makes it clear that the additional notice may be mailed as early as the same day that service of process is made.

5. It would be provided that where there has been compliance with the additional notice requirements, failure of defendant to receive such notice shall not preclude entry of, or invalidate, the default judgment. Without this provision, the plaintiff would be penalized unfairly by being prevented from obtaining a judgment where it is impossible to serve the additional notice on the defendant.

The proposal was submitted in 1979, 1980, and 1981. Last minute language changes in 1979 (re-embodied in the 1980 drafts) resulted in a delay in 1979, and in 1980 the amendment, along with several other procedural changes, was not reached on legislative dockets. In 1981, the bill passed the Assembly but not the Senate. No policy objections to the bill have been made known to the Advisory Committee on Civil Practice.

2. CPLR 2103(b) (2).

The Committee recommends that the three days by which a responding time is extended when a paper is served by mail be changed to five days.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to service of papers upon an attorney of party

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph two of subdivision (b) of rule twenty-one hundred three of the civil practice law and rules, is amended to read as follows:

2. by mailing the paper to him at the address designated by him for that purpose or, if none is designated, at his last known address; service by mail shall be complete upon deposit of the paper enclosed in a postpaid properly addressed wrapper, in a post offfice or official depository under the exclusive care and custody of the United States post office department within the state; where a period of time prescribed by law is measured from the service of a paper and service is by mail, [three] *five* days shall be added to the prescribed period; or

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The traditional three days by which a responding period is extended when the paper to be responded to is served by mail has proved too short in recent years, as the mails have been increasingly delayed. The Committee has been asked on a number of occasions in recent years to make a change in CPLR 2103(b) (2), where the three-day period is provided, and has decided to recommend the modest step of increasing it to five days. There have of course been reported instances in which even five days did not do the job, but these have not been frequent. The relatively rare case in which it takes more than five days for first-class mail to reach its goal should not, in the Committee's view, be made the criterion for amendment. The Committee settled on the five-day suggestion after being apprised of the results of a survey conducted by a large law firm in New York City. Some 90% of mailed papers were received within three days, but 99% were received within five.

If mail service grows worse, further amendment can be made of CPLR 2103(b) (2) at a later time to stretch the extension period further.

3. CPLR 3117(a) (4).

The Committee recommends the amendment of CPLR 3117(a) (4) to change the category of persons "authorized to practice medicine" to the broader category of persons "authorized by the Education Law to render health care or diagnostic services," as such persons are specified in the proposed amendment and defined in the Education Law. This recommendation is a revision of proposals made in 1980 and 1981.

Recommendation

AN ACT

To amend the civil practice law, in relation to the deposition of a person licensed to render health care or diagnostic services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph four of subdivision (a) of rule thirty-one hundred seventeen of the civil practice law and rules, as amended by chapter two hundred sixty-eight of the laws of nineteen hundred seventy-nine, is hereby amended to read as follows:

4. the deposition of a person authorized [to practice medicine] *by the Education Law to render health care or diagnostic services as a physician, physician's assistant, specialist's assistant, chiropractor, dentist, dental hygienist, physical therapist, physical therapist assistant, pharmacist, registered professional nurse, licensed practical nurse, podiatrist, optometrist, opthalmic dispenser, or psychologist, as those terms are defined in the Education Law,* may be used by any party without the necessity of showing unavailability or special circumstances subject to the right of any party to move pursuant to section 3103 to prevent abuse.

§2. This act would take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

This proposal would amend CPLR 3117(a) (4) to enable a party to use at trial, without a showing of special circumstances, a deposition, properly taken pursuant to order or on notice, of any one or more of the professionals defined and authorized under the Education Law to render health care or diagnostic services.

Both CPLR 3101(a) (3) and 3117(a) (4) were amended in 1979 to authorize, *inter alia*, the taking and use of a deposition of a "person authorized to practice medicine". It was proposed by the Committee in 1980 and again in 1981, that the category of persons subject to deposition under those amended provisions be expanded to embrace all persons authorized to administer any phase of health care or diagnostic services.

The purpose of the 1979 legislation was to facilitate the testimony of doctors at trial, not only to avoid interference with medical services, but also for the added convenience of the courts and of litigants as well. The same motivations govern the proposed expansion of CPLR 3117(a) (4) to embrace the whole range of health establishment.

It was intended that the persons embraced in the proposed expansion were those authorized to render health care and diagnostic services pursuant to the Education Law. At the 1981 session of the Legislature, however, objection was raised to the lack of precision in the term "a person licensed to render health care or diagnostic services." This objection is met by the present proposal, which spells out the specific person "authorized by the Education Law" to render such services, viz., physician (§§6540(1), 6522), physicians's assistant and specialist's assistant (§§6540(1), 6540(2)), chiropractor (§§6551, 6552), dentist and dental hygienist (§§6601, 6602, 6606, 6607), physical therapist and physical therapist assistant (§§6731, 6732, 6738, 6739), pharmacist (§§6801, 6803), registered professional nurse and licensed practical nurse (§§6902(1), 6902(2)), podiatrist (§§7001, 7002), optometrist (§§7101, 7102), opthalmic dispenser (§7121), and psychologist (§7601).

Another difference between the proposed amendment and that submitted in 1980 and 1981 is that CPLR 3101(a) (3), which relates to the taking of the disposition is not proposed for amendment in this bill which is limited only to CPLR 3117(a) (4), relating to the use of depositions at trial. The Committee, in its Study on Disclosure, which is discussed in Part I of this Report, is preparing a draft of a revision of CPLR Article 31, governing disclosure, in which it is proposed that the scope of disclosure without the need to show special circumstances, would no longer be restricted to certain specified classes of persons, as defined by CPLR 3101(a), but would extend to any person. Enactment of this bill involves different considerations from the proposed revision of CPLR 3101(a) and is not in conflict with that more far-reaching revision.

4. CPLR 5250; 3222(b) (1); 6001.*

The Committee proposes to repeal CPLR 5250, to abolish the remedy of arrest for which it provides in connection with the enforcement of money judgments, and to amend the other two provisions to strike their reference to the order of civil arrest, a remedy abolished from civil practice in 1979.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to arrest

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fifty-two hundred fifty of the civil practice law and rules is REPEALED.

§2. Paragraph one of subdivision (b) of rule thirty-two hundred twenty-two of such law and rules is amended to read as follows:

1. an order of [arrest or] attachment or a preliminary injunction shall not be granted;

§3. Section sixty hundred one of such law and rules is amended to read as follows:

§6001. Kinds of provisional remedies; when remedy available to defendant. The provisional remedies are [arrest,] attachment, injunction, receivership and notice of pendency. On a motion for a provisional remedy, the plaintiff shall state whether any other provisional remedy has been secured or sought in the same action against the same defendant, and the court may require the plaintiff to elect between those remedies to which he would otherwise be entitled; for this purpose, seizure of a chattel in an action to recover a chattel is a provisional remedy. A cause of action contained in a counterclaim or a cross-claim, and a judgment demanded thereon, shall entitle the defendant to the same provisional remedies to which he would be entitled if he were the plaintiff, the party against whom the judgment is demanded were the defendant and the cause of action were contained in a complaint.

§4. This act shall take effect immediately.

Comment

The Legislature abolished the provisional remedy of civil arrest in 1979. This it did by repealing Article 61 of the CPLR, which supplied the remedy.

Since the remedy of civil arrest in connection with the enforcement of a money judgment, which is found in CPLR 5250, is analogous to the abolished provisional remedy, similar policy considerations may be cited to support repeal of the CPLR 5250 arrest. Moreover, its repeal would probably go unnoticed, since a CPLR 5250 arrest is rarely if ever sought, much less granted. A perusal of CPLR 5250 in the McKinney's volume reveals no activity at all on the provision.

The amendments of CPLR 3222(b) (1) and CPLR 6001 are merely to recognize the 1979 repeal of the provisional remedy of civil arrest. CPLR 3222(b) (1), governing the submission on agreed facts (a procedure which dispenses with summons service and other adversary proceedings), makes certain provisional remedies unavailable. Arrest was among them, but since arrest no longer exists as a remedy, the reference to it should be eliminated.

CPLR 6001 lists the official provisional remedies. It still refers to arrest. The amendment would strike the reference.

5. CPLR 5601(a).

The Committee recommends that the jurisdiction of the Court of Appeals in instances of appeals taken as of right be curtailed, this enabling the Court to take more appeals by permission. A statistical study of the Court's cases demonstrates that the percentage of reversals (which confirm the merit of the appeal) in cases appealed by leave is dramatically higher than in cases appealed of right.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to appeals to the court of appeals as of right

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section fifty-six hundred one of the civil practice law and rules, as amended by chapter ninety-five of the laws of nineteen hundred seventy-three, is amended to read as follows:

(a) [Dissent, reversal or modification] *Dissent by two justices.* An appeal may be taken to the court of appeals as of right in an action originating in the supreme court, a county court, a surrogate's court, the family court, the court of claims or an administrative agency, from an order of the appellate division which finally determines the action, where [(i) there is a] *two justices* dissent on a question of law in favor of the party taking such appeal [, or (ii) such order directs a reversal of the judgment or order appealed from, or (iii) such order directs a modification thereof in a substantial respect, which is within the power of the court of appeals to review on such appeal, and the party taking the appeal is aggrieved by the modification].

§2. This act shall apply to every notice of appeal to the court of appeals otherwise timely served within the particular action or proceeding, which is served on or after the effective date of this act.

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*NOTE: CPLR 5250, which this amendment proposes to repeal, relates to the civil arrest of judgment debtors.

§3. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

This amendment is sought by the Court of Appeals and is recommended by the Office of Court Administration and the Advisory Committee on Civil Practice.

The amendment would narrow the existing bases for appeal as of right only under subdivision (a) of section 5601 of the CPLR and indirectly under subdivision (d) of that section. Thus, appeals as of right from final orders involving reversals, modifications and dissents are preserved, except that in all those categories there would have to be at least two dissenting votes at the Appellate Division. Of course, all such matters not appealable as of right would be subject to appeal by permission of either the Appellate Division or the Court of Appeals (CPLR 5602).

This change is needed to permit the Court of Appeals to deal more effectively with its burgeoning workload, to ensure the currency of its calendar, to permit more time and opportunity for deliberation and for writing opinions on those appeals which are highly significant and to grant more applications for leave to appeal in cases of truly statewide importance and significance.

In the five-year period between 1973 and 1978 the total caseload of the Court of Appeals increased 57.3 percent. Total cases disposed of in 1973 were 1,947; the total for 1978 was 3,040.

In 1978, of the total number of civil appeals heard by the Court of Appeals, 312 came to the Court as of right solely because of a reversal or modification by an Appellate Division or because of the dissent of a single justice in the Appellate Division, 29 cases involved an appeal as of right based upon a constitutional issue and only 106 cases were heard by the Court of Appeals by grant of a motion for permission.

The statistical analysis of the work of the Court indicates overwhelmingly that the general quality of the appeals that reach the Court of Appeals by leave are higher than the appeals mandated as of right. For example, the Court of Appeals affirmed 71 percent of the orders appealed as of right under provisions of CPLR 5601(a), and 82 percent of those appealed as of right because of a constitutional question. In contrast, the Court affirmed only 51 percent of orders appealed by leave of the Court of Appeals and 58 percent of orders appealed by leave of the Appellate Division. This clearly indicates the urgency of enabling the Court of Appeals to grant leave to appeal in more deserving civil cases without being overwhelmed by numerous less meritorious appeals as of right. Such determination and control of its own docket is, by and large, the national rule for courts of last resort and there is no sound reason for New York to be a minority exception to this sound jurisprudential practice.

Deeper analysis of the appeals heard by the Court of Appeals indicates that by volume, the least meritorious appeals as of right, other than those where a constitutional question is raised, are those involving reversals and modifications. In cases where the Appellate Division reversed a trial court, the Court of Appeals affirmed 75 percent of the time in 1978. This is understandable because often the Appellate Division unanimously corrects a clear error in law by the trial court and there is no point in mandating further appeal. Yet, under present law, the Court of Appeals is required to consider such matters. Thus, errors by the trial court, fully remedied by the Appellate Division, are allowed to dominate the calendar of the State's highest court. The Court of Appeals in 1978 also affirmed 70 percent of all cases where the Appellate Division modified an order or judgment of a trial court.

Appeals as of right based on the presence of a dissent are of a lower quality, by volume, than appeals by leave. The Court of Appeals in 1978, for example, affirmed 66 percent of appeals as of right based on dissent in the Appellate Division as against the 51 percent and 58 percent of appeals taken by leave in that year. The solution incorporated in this amendment is to retain dissent as a basis for appeals as of right, but to require the dissent of two justices rather than only one as a basis for a mandatory appeal, whether the order is one of reversal, modification or affirmance.

The Advisory Committee is aware that in some judicial departments, Appellate Division panels of four justices are utilized, but since the Committee understands that a fifth justice normally is available if necessary to cast a deciding vote, the Committee does not view this procedure as an impediment to the enactment of this measure.

The sound administration of the courts as well as the interests of the bar and the public require that the obligatory jurisdiction of the Court of Appeals be curtailed so that its permissive jurisdiction may be expanded.

6. CPLR 6313(a).

The Committee recommends that CPLR 6313(a), governing the temporary restraining order, be amended to require that if no notice is directed, the court state on the face of the order why it is being dispensed with, thus encouraging the procedure of requiring notice even of a temporary restraining order except in exigent circumstances.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to notice of motion for a temporary restraining order

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section sixty-three hundred thirteen of the civil practice law and rules, as amended by chapter three hundred eighteen of the laws of nineteen hundred sixty-two, is amended to read as follows:

(a) Generally. If, on a motion for a preliminary injunction, the plaintiff shall show that immediate and irreparable injury, loss or damages will result unless the defendant is restrained before a hearing can be had, a temporary restraining order may be granted without notice. *If the circumstances are such that notice, even if only by telephone or other informal means, is practicable and would not defeat the purpose of the order, the court shall direct that it be given; and if the court finds otherwise, it shall state in the order the reasons for dispensing with notice.* Upon granting a temporary restraining order, the court shall set the hearing for the preliminary injunction at the earliest possible time. No temporary restraining order may be granted in an action arising out of a labor dispute as defined in section eight hundred seven of the labor law, nor against a public officer, board or municipal corporation of the state to restrain the performance of statutory duties. This section shall not apply to the attorney general when an application is made by the [attorney-general] *attorney general* in a proceeding under article twenty-three-a of the general business law.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The Committee was asked to encourage judges to require notice of a temporary restraining order (TRO) in instances where it is feasible to have such notice given. The matter came before the Committee in 1979 but was put over until 1980 to obtain the advice and experience of a broad sampling of Supreme Court justices. (Since the TRO involves equity jurisdiction, it is almost exclusively a product of Supreme Court practice.)

To obtain this sampling, the matter was placed on the agenda of the 1979 annual meeting of the state's trial judges, the so-called "Crotonville Conference," where the judges related a range of experiences with the TRO.

The primary aim of the TRO is to retain a status quo while an application is brought on for a preliminary injunction. While that injunction (if granted) covers the whole pendency of the action until final judgment, the TRO covers only the period for bringing on the preliminary injunction hearing. Each instance of an application for a TRO is therefore one in which–at least to hear the applicant (assume it is the plaintiff) tell it–the urgency is too great to admit of any notice at all to the other side (assume it is the defendant). The experience of a majority of the judges suggests that while there is occasionally a showing of an exigency sufficient to dispense with notice of the TRO, many of the cases involve no such urgency and can well stand the giving of notice, however informal, of the TRO. The Committee is of the view that if the giving of notice is feasible and appropriate, then as a matter of policy it should be given.

The amendment of CPLR 6313 therefore provides that if the giving of notice is practicable, it should be ordered. The court can require the giving of notice in whatever form it chooses. It is common among a number of judges now, for example, even under the present version of CPLR 6313, to require the applicant to give telephone notice to the other side, the judge often permitting his own phone in chambers to be used for the purpose.

A ground for dispensing with notice is where there is a significant chance that the other side, upon being notified of the TRO application, will forthwith do the very thing the whole procedure is designed to prevent, such as by immediately removing from the state a chattel which is at the crux of the action. The court must be convinced that such a doing is not just the applicant's fancy, but a real possibility, before dispensing with notice, and it will of course be incumbent on the applicant to do the convincing in affidavits accompanying the initial application for the TRO (whose usual context is an order to show cause, bringing on the preliminary injunction application).

If for any reason notice of the TRO is dispensed with, the court under this amendment must state on the face of the TRO "the reasons for dispensing with notice." It is the Committee's hope that by so requiring, it will be each judge's practice to make the giving of TRO notice the norm and dispensing with it the exception.

7. CPLR 7502(c).

The Committee proposes to add a subdivision to CPLR 7502 to authorize the court to entertain, in conjunction with an arbitration, the provisional remedies of attachment and preliminary injunction.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to use of provisional remedies in arbitration

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seventy-five hundred two of the civil practice law and rules is hereby amended to read as follows:

§7502. Applications to the Court; venue; statutes of limitation; *provisional remedies*

(a) Applications to the court; venue. A special proceeding shall be used to bring before a court the first application arising out of an arbitration controversy which is not made by motion in a pending action. The proceeding shall be brought in the court and county specified in the agreement; or, if none be specified, in a court in the county in which one of the parties resides or is doing business, or, if there is no such county, in a court in any county; or in a court in the county in which the arbitration was held. All subsequent applications shall be made by motion in the pending action or the special proceeding.

(b) Limitation of time. If, at the time that a demand for arbitration was made or a notice of intention to arbitrate was served, the claim sought to be arbitrated would have been barred by limitation of time had it been asserted in a court of the state, a party may assert the limitation as a bar to the arbitration on an application to the court as provided in section 7503 or subdivision (b) of section 7511. The failure to assert such bar by such application shall not preclude its assertion before the arbitrators, who may, in their sole discretion, apply or not apply the bar. Except as provided in subdivision (b) of section 7511, such exercise of discretion by the arbitrators shall not be subject to review by a court on an application to confirm, vacate or modify the award.

(c) Provisional remedies. The supreme court in the county in which an arbitration is pending, or, if not yet commenced, in a county specified in subdivision (a), may entertain an application for a preliminary injunction or for an order of attachment in connection with an arbitrable controversy, but only upon the ground that the award to which the applicant may be entitled may be rendered ineffectual without such provisional relief. The provisions of articles 62 and 63 of this act shall apply to the application, including those relating to undertakings and to the time for commencement of an action (arbitration shall be deemed an action for this purpose) if the application is made before commencement, except that the sole ground for the granting of the remedy shall be as stated above. The form of the application shall be as provided in subdivision (a).

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The need often arises to protect a status quo while an arbitration is pending, just as it does when a litigation is pending. The availability of the provisional remedies in conjunction with an arbitration has been a source of dispute under the CPLR, where arbitration is not considered a "special proceeding." It was so considered under the Civil Practice Act (§1459), which the CPLR superseded in 1963, and hence, there was less difficulty in permitting the use of provisional remedies in connection with arbitrations. As special proceedings, they were for this purpose a category of court proceedings.

The Committee has been considering a proposal to authorize the court to entertain applications for the remedies of attachment (CPLR Article 62) and preliminary injunction (Article 63) when shown to be needed to preserve the efficacy of a potential arbitral award. The time seems ripe to present this proposal to the Legislature. A recent report by a Subcommittee on Provisional Remedies of the Committee on Arbitration of the Association of the Bar of the City of New York includes a survey of the area and recommends legislation to add the provisional remedy authorization to both federal and state practice.

The application is made to the Supreme Court, and one of the matters the Committee draft addresses is venue. If the arbitration is pending when the application is made, it is made in the county of the arbitration's pendency. If the arbitration has not yet been commenced, the application is made in a county specified in the existing subdivision (a) of CPLR 7502.

The only remedies made available are attachment and preliminary injunction (which would of course include the temporary restraining order). The receivership (Article 64) and the lis pendens (Article 65) are not made available. The sole ground for the grant of either the attachment or injunction, moreover, is that the award the applicant is seeking in arbitration "may be rendered ineffectual" without it.

When an attachment is sought before an action is commenced, there is a requirement that the action be commenced within 60 days after the attachment is granted. CPLR 6213. The same requirement would apply to the commencement of the arbitration if the granting of the attachment precedes it. Also retained are the bonding requirements of Articles 62 and 63, so that a party obtaining the remedy in conjunction with an arbitration not be relieved of any liabilities that might apply in a litigated case.

Background and case illustrations in support of the need for this amendment may be found in the cited report of the Subcommittee of the Association of the Bar's Arbitration Committee.

8. CPLR 7503(d).

The Committee recommends that a statute be enacted directing that the trial of issues of fact arising on an application to compel or stay an arbitration be without a jury.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to the trial of issues of fact in respect to arbitration

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seventy-five hundred three of the civil practice law and rules, as amended by chapter three hundred eight-eight of the laws of nineteen hundred sixty-four, is amended by adding thereto a new subdivision, to be subdivision (d), to read as follows:

(d) Issues of fact. Issues of fact arising on an application under this section shall be tried by the court without a jury.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The Committee makes this recommendation unanimously, but with decidedly mixed emotions.

The purpose of arbitration is to facilitate dispute resolution. It is not consistent with that purpose to permit one party to an ostensibly arbitrable dispute to delay the arbitral process by interposing objections to arbitration and then, if issues of fact are presented about whether an agreement to arbitrate was made, to insist that they be tried by jury. Additionally, of course, is the factor of the over-burdened calendars of the courts, which are hardly helped by having to impanel juries to determine arbitrability questions. The Committee has often been asked to recommend a statute that would dispense with trial by jury of such issues.

The problem is one of constitutionality. Some of the Committee have serious reservations about whether a statute can dispense with a jury in trying such issues. They reason that if, absent any commitment to arbitrate, an ordinary action involving the dispute would be triable by jury, such as where it involves money only, a genuine issue as to whether the dispute is to be taken away from the courts would also require trial by jury. An arbitrability issue, concludes this argument, is just such an issue.

An opposing view is that if a party has affixed his signature to an agreement containing an arbitration clause, he has established link enough with an obligation to arbitrate to permit trial of the issue by the court without a jury.

Ideal would be an amendment of the state constitution to dispense expressly with trial by jury in such instances. But the amendment process is a cumbersome one. The Committee takes the position that the matter should not be pressed to the constitutional-amendment point until the Court of Appeals has at least had a chance to address the issue whether, under present law, the arbitrability question is triable by jury. While a statute dispensing with trial by jury of the question is not indispensable to set up a court test, it would surely be helpful. Hence, the Committee recommends the adoption of CPLR 7503(d), dispensing with trial by jury of the threshold question of arbitrability and other issues of fact and permitting these questions to be heard and resolved by the court.

Because of the Committee's reservations about constitutionality, a report addressed to the subject was undertaken by a Yale law student under the direction of Professor Geoffrey C. Hazard, Jr. The report, which appears at page 314 of the Judicial Conference's 1978 Annual Report, concludes that the Constitution does not bar the Legislature from requiring that trial of the arbitrability issue be by court without a jury. The matter remains in doubt, and its submission to the courts is deemed the most appropriate step.

If the courts determine that trial by jury is required, and set CPLR 7503(d) aside as unconstitutional, the Committee will have performed what it considers to be its duty to help set the stage for the test.

9. CPLR 7803(4).

The Committee recommends that CPLR 7803(4) be amended to clarify that in order properly to seek judicial review of an administrative determination, by raising, in an Article 78 proceeding, the question whether the determination was supported by substantial evidence, the administrative hearing must be the type of hearing in which evidence is taken under oath, namely, a quasi-judicial or adjudicating hearing.

Recommendation

AN ACT

To Amend the civil practice law and rules, in relation to clarification of question of substantial evidence raised in article 78 proceeding

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph four of section seventy-eight hundred three of the civil practice law and rules is amended to read as follows:

4. whether a determination made as a result of a hearing held, and at which evidence was taken *under oath*, pursuant to direction by law is, on the entire record, supported by substantial evidence.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The Committee proposes this brief clarifying amendment of CPLR 7803(4) in order to make explicit that judicial review of an administrative determination on the question whether the determination was supported by substantial evidence is proper only where the administrative hearing is quasi-judicial or adjudicating in nature, accepting evidence given under oath.

The substantial evidence question is improperly raised where the administrative hearing is one at which no sworn testimony is taken, such as an open, or public "hearing" conducted by diverse municipal governing bodies in carrying out a myriad of functions of general public interest, such as zoning regulations. To prevent any confusion on this point, the Committee recommends the amendment of CPLR 7803(4) to require that the evidence under oath be taken at the hearing in order for the hearing to produce a record qualifying for "substantial evidence" treatment.

The recommended clarification would help prevent procedural difficulties and inconsistencies in the processing of certain Article 78 proceedings. A petitioner mistakenly seeking review of an administrative determination not qualifying under the substantial evidence test under CPLR 7803(4) is still entitled to the benefit of the expeditious procedures of Article 78 of the CPLR, but the test applied to it comes from one of the prior paragraphs of CPLR 7803, such as the "arbitrary and capricious" test of CPLR 7803(3). The Committee feels that the statute should accurately reflect this.

10. CPLR 7804(g).

The Committee recommends that CPLR 7804(g) be amended to clarify which issues the Supreme Court is to decide at Special Term before directing that a case involving the substantial evidence test be transferred to an Appellate Division for determination.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to the hearing and determination of article 78 proceedings

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (g) of section seventy-eight hundred four of the civil practice law and rules is amended to read as follows:

(g) Hearing and determination; transfer to appellate division. Where [an] *the substantial evidence* issue specified in question four of section 7803 is not raised, the court in which the proceeding is commenced shall itself dispose of the issues in the proceeding. Where such an issue is raised, the court shall *first dispose of such other objections as could terminate the proceeding without reaching the substantial evidence issue. If the determination of the other objections does not terminate the proceeding, the court shall* make an order directing that [the proceeding] *it* be transferred for disposition to a term of the appellate division held within the judicial department embracing the county in which the proceeding was commenced [; the court may, however, itself pass on objections in point of law]. When the proceeding comes before it, whether by appeal or transfer, the appellate division shall dispose of all issues in the proceeding, or, if the papers are insufficient, it may remit the proceeding.

§3. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

CPLR 7804(g), which requires that an Article 78 proceeding involving the substantial evidence review criterion be transferred by the Supreme Court, where the proceeding is begun, to the Appellate Division, provides also that the Supreme Court "may...itself pass on objections in point of law" before making the transfer. Just what questions are to be passed upon under this ambiguous criterion has always been a source of disagreement.

The soundest conclusion the Committee discerns from among the several that the provision can give rise to is that the Supreme Court should pass only on those objections that have the potential for determining the case without reaching the substantial evidence question, i.e., objections that can dismiss the action and thus obviate a transfer. The matter had the attention of the annual Crotonville Conference of Trial Judges in 1979, and the consensus of the judges was in harmony with the above conclusion.

Accordingly, the Committee recommends that Special Term pass only on such objections as could result in dismissal. Examples would be want of jurisdiction, statute of limitations, res judicata and the like. If any such objection succeeds, the case is dismissed and a transfer (and a reaching of the substantial evidence issue) is made unnecessary. If it fails, the case can then be transferred up for determination of the substantial evidence issue by the Appellate Division, along with such other objections as did not have the potential for terminating the case, e.g., questions of admissibility of evidence by the agency, the following of proper administrative procedure, etc.

An alternative the Committee rejected was a repeal of CPLR 7804(g), so as to give even the substantial evidence question to the Supreme Court, with the Appellate Division to get it, if at all, only later on as part of an ordinary appeal. Since the substantial evidence rule is an adjunct of the old writ of certiorari, which applied only when it was sought to review a determination following a full-fledged "quasi-judicial" hearing (what the State Administrative Procedure Act denominates an "adjudicatory proceeding"), and since this phase of Article 78 carries forth that function, the procedure of leaving initial judicial review of the substantial evidence question to the Appellate Division should be retained. The premise underlying this procedure is that there has already been a plenary hearing before the agency, giving rise to a full record, and that a "substantial evidence" review of that record should go only to an appellate-level court. The Committee is of the view that the reason for "filtering" it through nisi prius, as CPLR 7804(g) does, is only to enable that court to determine other issues that may be raised and that can obviate disposition of the substantial evidence issue.

11. CPLR 8001(a).

The Committee proposes to raise the daily fee for a subpoenaed witness from $2 to $15, and the mileage fee payable to him from eight to 22 cents.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to fees of witnesses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section eighty hundred one of the civil practice law and rules, is amended to read as follows:

(a) Persons subpoenaed. Any person whose attendance is compelled by a subpoena, whether or not actual testimony is taken, shall receive for each day's attendance [two] *fifteen* dollars for attendance fees and [eight] *twenty-two* cents as travel expenses for each mile to the place of attendance from the place where he was served, and return. There shall be no mileage fee for travel wholly within a city.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

This is self-evidently an inflation measure, and in the Committee's judgment a modest one. The witness fee of $2 has for many years been inadequate, and the figure of $15 to which the Committee proposes to raise it is at least a step toward reality. Travel expenses have increased beyond the eight-to-22 cent jump here proposed, and this is true regardless of the mode of transportation used. The provision that dispenses with the mileage item when the travel is entirely within a city is not affected. The theory behind that exception is that public transportation is available at a modest figure, but that proposition will also bear monitoring.

The increase being adopted here for the trial subpoena will apply to the pretrial deposition subpoena as well. An additional $3 remains applicable to that subpoena under subdivision (b) of CPLR 8001.

Also, through the adoptive provision of §610 of the Criminal Procedure Law, these increases in fees and mileage would apply in criminal as well as civil actions.

12. CPLR 8201-8204.

The Committee recommends the amendment of this quartet of sections to increase litigation costs to recognize the accelerated inflation of recent years.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to amount of costs in an action

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eighty-two hundred one of the civil practice law and rules, as amended by chapters seven hundred thirty-four and seven hundred thirty-five of the laws of nineteen hundred seventy-two, is amended to read as follows:

§8201. Amount of costs in an action. Costs awarded in an action shall be in the amount of:

1. [fifty] *two hundred* dollars [in the counties within the city of New York, and twenty-five dollars in all other counties,] for all proceedings before a note of issue is filed; plus

2. [one] *two* hundred dollars [in the counties within the city of New York, and fifty dollars in all other counties,] for all proceedings after a note of issue is filed and before trial; plus

3. [one] *three* hundred [fifty] dollars [in the counties within the city of New York, and seventy-five dollars in all other counties,] for each trial, inquest or assessment of damages.

§2. Section eighty-two hundred two of such law and rules, as amended by chapters seven hundred thirty-four and seven hundred thirty-five of the laws of nineteen hundred seventy-two, is amended to read as follows:

§8202. Amount of costs on motion. Costs awarded on a motion shall be in the amount fixed by the court, not exceeding [forty] *one hundred* dollars [in counties within the city of New York, and twenty dollars in all other counties].

§3. Subdivision (a) of section eighty-two hundred three of such law and rules, as so designated by chapter three hundred ninety-one of the laws of nineteen hundred seventy-two and as amended by chapter seven hundred thirty-five of nineteen hundred seventy-two, is amended to read as follows:

(a) Unless the court awards a lesser amount, costs awarded on an appeal to the appellate division shall be in the amount of [1. twenty-five dollars for all proceedings before argument; plus 2. fifty dollars for argument] *two hundred fifty dollars.*

§4. Section eighty-two hundred four of such law and rules, as amended by chapter seven hundred thirty-five of the laws of nineteen hundred seventy-two, is amended to read as follows:

§8204. Amount of costs on appeal to court of appeals. Unless the court awards a lesser amount, costs awarded on an appeal to the court of appeals shall be in the amount of [1. fifty dollars for all proceedings before argument; plus 2. seventy-five dollars for argument] *five hundred dollars.*

§5. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law; provided, however, that its provisions shall apply only to bills of costs entered on or after such date, regardless of when the claim accrued or the action was commenced.

Comment

What few adjustments have been made in the CPLR costs provisions have been slow and small. Costs have never been commensurate with the actual expense of litigating an action, but as the dollar has declined in value at an accelerated pace over recent years, the amounts provided have perhaps lost what little significance they had.

The Committee proposes to make an across-the-board increase in the amount of costs awardable for the various stages of an action (CPLR 8201), for a motion (CPLR 8202) and for appeals to the Appellate Division (8203(a)) and the Court of Appeals (CPLR 8204).

With respect to costs awardable in an action, a distinction is presently made between New York City and elsewhere. The costs are awardable in stages under CPLR 8201, but the sums awardable in New York City counties are double those awardable in the other 57 counties. The proposal removes this distinction, so that the sums suggested would apply in all counties.

Costs awardable for proceedings before the filing of a note of issue are presently $50 in New York City and $25 elsewhere. The amendment of CPLR 8201(1) would change this to a uniform $200. This may appear at first blush to be at least a quadrupling of the present figure. It is not, for this reason: this pre-note of issue segment has until recent years involved little preparation. The practice was to file the note of issue early in the case, before the trouble and expense of disclosure and other pretrial proceedings were undertaken. In the present era of the statement of readiness, however, which must accompany the note of issue, this first stage has become a busy and expensive one. This fact has never been recognized in a costs adjustment. The proposal accords it that recognition.

The second stage, which covers the period after the filing of the note of issue but before an actual trial, presently invokes costs of $100 in New York City and $50 elsewhere; a uniform $200 is substituted for statewide application under the proposed amendment of CPLR 8201(2). Steps one and two in litigation will now each carry costs of $200.

The trial itself, should the case get that far, involves costs of $150 in New York City and $75 elsewhere at present. The proposed amendment of CPLR 8201(3) substitutes a uniform $300 for this step statewide.

Under the proposals, total costs, should a trial result, would be $700 in a Supreme Court action, as opposed to the present total of $300 in New York City and $150 in other counties. If the jump seems at all dramatic, it is only because of continuing omissions over the years to have the costs provisions merely track the movement of the dollar.

A proposal to have costs for the trial stage progress on a per diem basis (the amount proposed was $200 daily) was deferred by the Committee, not because unfair or unjust, but because it was deemed to be too radical in the context of the history of costs in New York.

Motion costs are presently a maximum of $40 under CPLR 8202. The proposal would raise the maximum to $100. Considering that this provision governs every category of motion, and that ordinarily even the most insignificant motion will entail time and effort ultimately costing each litigant well in excess of the $100 maximum proposed, the figure was deemed a reasonable one.

It should be pointed out in connection with motion costs that CPLR 8202 governs only the amount of motion costs, should they be awarded. Whether to award them is the mission of CPLR 8106, which leaves the matter to the court's discretion. That discretion could of course be exercised to award costs in a sum less than the $100 maximum. Several members of the Committee expressed the view that a more liberal application of the costs sanction on motions might have a salutary effect on discouraging at least the more frivolous motions.

The sum of $75 is the maximum award applicable at present on an appeal to the Appellate Division under CPLR 8203(a). The proposal raises this to $250 and eliminates the two-stage award (one before and one after argument) now used.

The sum of $125 is the present maximum for costs upon an appeal to the Court of Appeals under CPLR 8204. The proposal raises this to $500, still far from any realistic appraisal of the appeal's actual cost but nonetheless a step forward. Again, the two-stage standard presently applicable is abandoned.

The labors that went into a formulation of the costs proposals were largely those of one of the Committee's own members, William D. Eggers of Rochester, and the Committee wishes to acknowledge those efforts with thanks.

13. CCA §1809, UCCA §1809
UDCA §1809, UJCA §1809.

The Committee recommends that the New York City Civil Court Act §1809(2) and the analogous provisions in the three uniform court acts, which relate to the appearance of corporate defendants in small claims actions, be amended to permit any corporation to defend a small claims action without having to retain an attorney.

Recommendation

AN ACT

To amend the New York city civil court act, the uniform city court act, the uniform district court act and the uniform justice court act, in relation to the appearance of a corporation in the defense of a small claims action

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section eighteen hundred nine of the New York city civil court act, as added by chapter two hundred of the laws of nineteen hundred seventy-six is amended to read as follows:

2. A corporation may appear in the defense of any small claim action brought pursuant to this article by a natural person who is [a shareholder who owns not less than one-third of the issued shares of voting stock of such corporation or, in the case of a corporation having no more than ten holders of issued shares of voting stock, all of whom are natural persons,] an officer, *director or employee* of such corporation.

§2. Subdivision two of section eighteen hundred nine of the uniform city court act, as added by chapter two hundred of the laws of nineteen hundred seventy-six, is amended to read as follows:

2. A corporation may appear in the defense of any small claim action brought pursuant to this article by a natural person who is [a shareholder who owns not less than one-third of the issued shares of voting stock of such corporation or, in the case of a corporation having no more than ten holders of issued shares of voting stock, all of whom are natural persons,] an officer, *director or employee* of such corporation.

§3. Subdivision two of section eighteen hundred nine of the uniform district court act, as added by chapter two hundred of the laws of nineteen hundred seventy-six, is amended to read as follows:

2. A corporation may appear in the defense of any small claim action brought pursuant to this article by a natural person who is [a shareholder who owns not less than one-third of the issued shares of voting stock of such corporation or, in the case of a corporation having no more than ten holders of issued shares of voting stock, all of whom are natural persons,] an officer, *director or employee* of such corporation.

§4. Subdivision two of section eighteen hundred nine of the uniform justice court act, as added by chapter two hundred of the laws of nineteen hundred seventy-six, is amended to read as follows:

2. A corporation may appear in the defense of any small claim action brought pursuant to this article by a natural person who is [a shareholder who owns not less than one-third of the issued shares of voting stock of such corporation or, in the case of a corporation having no more than ten holders of issued shares of voting stock, all of whom are natural persons,] an officer, *director or employee* of such corporation.

§5. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The Committee recommends the proposed amendment on the ground that the policy underlying the provisions which permit a corporate defendant to appear in small claims actions without an attorney would be fully implemented only by enactment of the proposed legislation. It should be noted that no change is recommended in the provisions which prohibit corporations from commencing small claims with or without an attorney.

The general provision of section 321(a) of the Civil Practice Law and Rules, which is salutary, provides that a corporation or voluntary association shall always appear in an action by an attorney, "except as otherwise provided in section 1809 of the New York city civil court act, the uniform district court act, the uniform city court act and the uniform justice court act." In 1976 these court acts all were identically amended to permit a corporation to appear in the defense of a small claim action, without an attorney, by "a shareholder who owns not less than one-third of the issued shares of voting stock of such corporation or, in the case of a corporation having no more than ten holders of issued shares of voting stock, all of whom are natural persons, an officer of the corporation."

The Advisory Committee on Civil Practice believes that small claims courts are disigned primarily for *pro se* litigation and that the mandatory use of lawyers in these courts is counterproductive to speedy and inexpensive disposition and is unfair to both plaintiffs and defendants. The cumbersome exception that now permits certain corporations but no others to defend a small claims action without a lawyer is inconsistent with the simplicity of procedure desired in small claims courts, and is illogical because the complex formula does not actually distinguish on the basis of corporate size, even though such a distinction may have been intended. Conceivably, under the present statutory formula, a very large family corporation could appear without an attorney.

The traditional justification for requiring a corporation to appear by an attorney is that a corporation is not a natural person who can appear *pro se*. The Court, in *Austrian, Lance & Stewart, P.C. v. Hastings Properties, Inc.*, 87 Misc.2d 25, 26 (1976), states that "the reason corporations are required to act through attorneys is that a corporation is a hydra-headed entity and its shareholders are insulated from personal responsibility. There must, therefore, be a designated spokesman accountable to the Court."

The Advisory Committee believes it untenable that in actions for $100 or $200 against a corporation, the corporate officer familiar with the matter cannot represent the corporation. Often it is inconvenient to retain an attorney for this purpose and the expense is unwarranted. In addition, it is hardly equitable to insist that the small individual claimant, whenever he sues a larger corporation in small claims, must either appear *pro se* and argue against a corporate attorney or else undergo the expense of retaining counsel. The unfairness works both ways.

The Advisory Committee does not feel that shareholders who are not officers should appear for corporations in small claims actions, since this often could involve dissident or unrepresentative shareholders. However, it is proposed that a corporation named as defendant in a small claims action, if it does not choose to retain an attorney for the purpose, may appear by an officer, employee or director.

Part IV Pending and Future Matters other than Disclosure Study

The Committee has a number of projects under way or under consideration. The more prominent of these are the following:

1. The Committee is reviewing the suggestions and counter-proposals that have come in from members of bench and bar and from the various clerks' offices around the state in response to its proposed amendments of the official forms.

2. Further study of the costs provisions applicable in litigation, including the extra allowances provided by Article 83 of the CPLR and the costs applicable to smaller actions pursuant to Article 19 of the lower court acts, has been deferred until adoption of the basic increase bill that was submitted but not adopted in 1980 and 1981 and is being resubmitted this year (proposal No. 12 in Part III of this Report).

3. Possible legislative or rule implementation of the Court of Appeals decision in *Gordon v. Committee on Character and Fitness*, 48 N.Y.2d 266, 422 N.Y.S.2d 641 (1979), is still under consideration. The *Gordon* case invalidated the state's six-month residency requirement for bar admission.

4. The Committee is keeping abreast of developments in several pending cases involving the constitutionality of some enforcement of judgment provisions. These are principally the restraining notice contained in CPLR 5222 and the property execution of CPLR 5230, which are under a cloud for failure to require that the judgment debtor be given prior notice of the use of these devices, which affect the debtor's property. The federal courts have at least one such case pending at the moment and the Committee will keep abreast of its progress, with an eye to remedial legislation to meet any constitutional objections that may be sustained in the courts.

5. The Committee is considering a proposal that would avoid forum abuse in smaller cases (one that would fit within Small Claims jurisdiction) that are venired in the Supreme Court in the plaintiff's county, although the claim arose and the defendant resides in a different county. It was reported to the Committee, for example, that a veterinarian with his office in New York County made it a habit to sue his New York customers, based on New York transactions, in the Supreme Court of Westchester County, the plaintiff's residence. This is technically a fulfillment of the venue requirements applicable in the Supreme Court (CPLR 503), but the policy of the state to have small claims adjudicated in the lower court of an appropriate county is undermined by such use of the Supreme Court. The Committee is undecided about the form that a remedy is to take and has before it possibilities based on altered venue rules, an expansion of the definition of a consumer transaction so as to embrace the offensive cases and a costs penalty for abusive forum choices in small cases.

6. The Committee is considering the impact on the tort settlement statute, Gen. Oblig. L. §15-108, of the Court of Appeals decision in *Riviello v. Waldron*, 47 N.Y.2d 297, 418 N.Y.S.2d 300 (1979). The statute applies in multitortfeasor cases when fewer than all the tortfeasors settle. The *Riviello* case holds that the statute applies only in "contribution" cases but not in "indemnification" cases, i.e., those in which the relationship between the settling and non-settling defendants is such that one derives liability entirely from the other. The impact of the case is to discourage settlements on the part of the one whom the law would presumably most encourage to settle: the primary wrongdoer. Possible amendment of the statute to include indemnification as well as contribution cases is under consideration.

7. There are a number of other proposals, of varying size and impact, also before the Committee, which do not require individual enumeration here.

* * * * *

The Committee continues to solicit the comments and suggestions of bench, bar, academic community and public, and invites the sending of all observations, suggestions and inquiries to:

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January 8, 1982

1982 Report

of the

Advisory Committee on Criminal Law and Procedure

to the

Chief Administrator of the Courts

of the

State of New York

February 2, 1982

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I. Introduction

This is the Eleventh Annual Report of the Advisory Committee on Criminal Law and Procedure. We recommend endorsement of twenty-one measures to amend the Criminal Procedure Law, one to amend the Penal Law and one to amend the County Law. Six of these measures are being submitted for the first time. The balance previously have been submitted by the Chief Administrative Judge and endorsed by the Judicial Conference.

The new measures include proposals: clarifying that evidence before a grand jury is not legally sufficient unless it includes such corroborative evidence as would be required by law to sustain a conviction; establishing an affirmative defense to prosecution for criminal possession of a weapon; providing that a defendant may seek suppression at a pre-trial hearing of involuntary statements he may have made to any person, law enforcement official or not; permitting the Court of Appeals to review an unpreserved question of law decided by an appellate division as a matter of discretion in the interest of justice; establishing a procedure for judicial scrutiny of cash bail in the amount of $10,000 or more; and permitting an application for a search warrant to be made orally to a judge via telephone or other electronic means.

Part II of this Report summarizes each of the measures previously submitted and explains its purpose. Part III summarizes each of the measures being submitted for the first time. Part IV sets forth the text of each measure.

II. Previously Endorsed Measures.

A. Establishment of a Procedure to Obtain Warrant of Arrest

It is recommended that section 1.20 and article 120 of the Criminal Procedure Law be amended to establish a procedure for obtaining a warrant of arrest prior to the formal commencement of a criminal action.

In a recent opinion, the United States Supreme Court held that an arrest warrant must be obtained before police may enter a suspect's home to make a "routine" felony arrest, absent exigent circumstances. *Payton v. New York,* 445 U.S. 573 (1980). Under existing New York law, an arrest warrant may not be issued until after an accusatory instrument commencing a criminal action is filed. CPL §120.10. This limitation causes difficulty when authority to arrest is needed and a court is unavailable for the filing of the accusatory instrument, or practical problems delay the preparation of the instrument itself. There are also circumstances under which probable cause to arrest an individual exists but further investigation is warranted before the prosecution can determine whether to commence a criminal action. Therefore, it is necessary to develop a mechanism whereby law enforcement officers possessing the statutory requirements to arrest without a warrant in a public place may obtain judicial authorization to arrest a person in his home before formal criminal proceedings are begun.

Our proposal would establish that mechanism by amending the existing arrest warrant provisions to permit an *ex parte* application to be made to the court for a warrant when a person may be arrested for a crime pursuant to section 140.10 of the Criminal Procedure Law and all other statutory requirements are met. The application provisions are patterned after those governing search warrants (*see,* CPL §690.35), and the procedure to be followed after arrest remains as stated in section 140.20 with the additional requirement of a return of the warrant and a report to the court indicating that the time and place of the arrest and subsequent steps taken.

The new procedure established by this measure will safeguard the rights of individuals suspected of criminal activity while permitting law enforcement officers to complete their investigations before commencing formal proceedings. It must be noted, however, that this measure may also have an impact upon the scope of other investigatory procedures which may be conducted before an action is commenced. *See, People v. Samuels,* 49 N.Y.2d 218 (1980).

B. Authority for the Chief Administrator to Prescribe Forms.

It is recommended that the Criminal Procedure Law be amended by adding a new section 1.15 which authorizes the Chief Administrator of the Courts to adopt, amend and rescind forms to be used in all criminal courts throughout the State.

Under existing provisions of the Civil Practice Law and Rules (§107), the Family Court Act (§214), and the Surrogate's Court Procedure Act (§106), the Chief Administrator is authorized to prescribe forms for the efficient administration of these acts. Our proposal would include similar authority in the Criminal Procedure Law. It would also provide, however, that failure to use the official forms promulgated by the Chief Administrator shall not, for that reason alone, be grounds for the denial or granting of any motion.

At present, a variety of forms are employed in criminal practice around the State. By insuring a substantial measure of uniformity, this measure would have the salutary effect of promoting the orderly and efficient administration of justice.

C. Immunity of Grand Jury Witnesses.

It is recommended that section 190.40 of the Criminal Procedure Law be amended to clarify existing law by providing that a witness before the grand jury does not receive immunity by reason of giving identification evidence of a nontestimonial character which the witness would have no constitutional privilege to withhold.

Section 190.40 now confers immunity upon any witness who has been compelled to "give evidence" before the grand jury. This standard of "giving evidence" is, however, overbroad and could be construed to authorize immunity for a person appearing before the grand jury even if the evidence he gives were non-testimonial and not of a type which he is otherwise privileged to withhold.

If a witness has no privilege with respect to this evidence, he has given up nothing by furnishing it to the grand jury and should not receive immunity as a result.

These considerations apply primarily to the giving of nontestimonial identification evidence, such as standing in a lineup, or furnishing a blood, voice, handwriting or fingerprint sample. A witness has no constitutional privilege to refuse to give this evidence, *Schmerber v. California*, 384 U.S. 757 (1966), and, therefore, should not receive immunity by reason of providing it.

Paragraph (c) of subdivision two of section 190.40, as added by the Legislature in 1975, recognizes the principle as it applies to corporate books and records which a witness similarly would not be privileged to withhold. Our proposal would delete paragraph (c) and replace it with a general provision which limits the grant of immunity to evidence which is protected from disclosure by the privilege against self-incrimination.

D. Bill of Particulars Upon Demand.

It is recommended that existing section 200.90 of the Criminal Procedure Law be repealed in favor of a new section 200.90 which would permit a defendant to obtain a bill of particulars upon demand.

Section 200.90 now provides that bills of particulars in criminal proceedings may be obtained only upon motion to the court. Under the new section 200.90 we recommend, bills of particulars would be made available upon demand by the defendant, without the necessity of a motion to the court. The prosecutor would have twenty days from the service of defendant's demand for a bill of particulars to file it with the court and to serve a copy thereof upon the defendant or his attorney. In the event the prosecutor fails to furnish or refuses to furnish a bill of particulars, the court would be authorized, upon motion of the defendant, to order the prosecutor to comply with the demand.

The practice of requiring defendants to seek bills of particulars by motion only is a needless *pro forma* procedural exercise which unecessarily burdens our courts. Since motion procedures would be available as safeguards against abuse, demands for bills of particulars should be used in the first instance to provide defendants with the information necessary to ensure adequate preparation of defenses. *See, People v. Iannone*, 45 N.Y.2d 589 (1979).

Additionally, our proposal would remedy an apparent oversight in the law. Section 240.20 of the Criminal Procedure Law now permits discovery upon demand by defendants of certain property in the prosecutor's possession. It makes no provision, however, for obtaining bills of particulars. *See*, Bellacosa, Supplementary Practice Commentaries, McKinney's Cons. Laws of N.Y., Book 11A, CPL §200.90, p. 153. Our proposal would supply the necessary missing authority.

E. Discovery of Nontestimonial Evidence.

It is recommended that section 240.40 of the Criminal Procedure Law be amended to expand a court's authority to issue an order requiring a defendant to provide nontestimonial evidence.

Section 240.40 of the Criminal Procedure Law now authorizes a court in which an indictment or information is pending to order a defendant to provide nontestimonial evidence. This order may require a defendant to appear in a lineup, speak for identification, be fingerprinted, pose for photographs, provide blood, hair or handwriting samples or submit to a medical examination. CPL §240.40(2).

Our proposal would expand the court's authority to issue this order to proceedings in which a felony or misdemeanor complaint is pending. Since these accusatory instruments must also contain factual allegations supporting or tending to support the charges, there is no reason to exclude them from the list of instruments which provide the basis for the court's authority.

Although this proposal is included within our recommendation for comprehensive, judicially-sanctioned non-testimonial identification procedures (*See*, item "M" of this Report), the Committee feels that it also merits consideration as a separate measure.

F. Conduct of *Voir Dire*.

It is recommended that section 270.15 of the Criminal Procedure Law be amended to transfer responsibility for conducting the *voir dire* of prospective jurors in a criminal case from the parties to the court.

Under our proposal, the court would conduct a general examination of prospective jurors regarding their qualifications to serve. The parties would be permitted to submit written questions to the court in advance of the *voir dire*; and to submit oral or written questions during the actual questioning. The court may add these questions to its own inquiry, or it may permit counsel to ask them of the prospective jurors directly.

This procedure would result in the elimination of a significant amount of delay caused by unnecessarily prolonged *voir dire* now conducted by counsel for the parties. It combines the attributes of the existing system in New York and the federal jury selection system, in which *voir dire* is generally conducted by the court without the participation of the lawyers. *See*, Fed. Rules Cr. Proc. rule 24(a). Our proposal would eliminate delay while preserving the rights of the parties to an impartial jury.

G. Reduction of Peremptory Challenges.

It is recommended that section 270.25 of the Criminal Procedure Law be amended to reduce the allotted number of peremptory challenges from twenty to fifteen if the highest crime charged is a Class A felony, from fifteen to twelve if the highest crime charged is a Class B or C felony, and from ten to eight in all other cases.

After conducting an intensive study of the method of jury selection in New York, the Subcommittee on the Jury System of the Advisory Committee on Court Administration, chaired by the Hon. Caroline K. Simon, recommended the reduction of the number of peremptory challenges to the levels proposed by this bill as a means of improving the efficiency of our jury selection system. Subcommittee on the Jury System, *Interim Report*, 1976/77. The Subcommittee based its recommendation on the following specific findings:

1. There is a direct correlation between the number of peremptory challenges permitted and the excessively large size of panels sent to *voir dire*.
2. Peremptory challenges extend the time necessary to conduct *voir dire*, which has the effect of delaying trials and congesting court calendars.
3. The use of the challenge provokes hostility and resentment on the part of jurors who are peremptorily excused.
4. The availability of a large number of peremptory challenges in criminal cases can result in systematic exclusion of particular groups from jury service in a given trial.
5. It is questionable whether the peremptory challenge accomplishes the purpose for which it was devised — producing an impartial jury: indeed, it may convincingly be argued that it is used by attorneys to pick a biased jury rather than an unbiased one.

The Subcommittee also noted that New York now allows more challenges in felony cases than most other states.

This Committee agrees with these findings and recommends this proposal as an effective method of reducing a significant amount of delay in the conduct of criminal jury trials, without diminishing the fairness of the trial.

Our proposal would permit the court, for good cause shown, to increase the number of allotted peremptory challenges to the level allowed under existing law. We feel this authority is necessary to preserve the rights of the parties in exceptional cases.

H. Decision on Motion for a Trial Order of Dismissal.

It is recommended that sections 290.10, 310.60 and 450.20 of the Criminal Procedure Law be amended to permit a trial court to reserve decision on a motion for a trial order of dismissal until after a verdict of guilty has been rendered.

By reserving decision, the trial court may preserve the People's right to appeal an adverse decision without affecting the rights of the defendant, since the decision would have to be based upon the evidence presented up to the time when the motion was made. If the motion were to be granted immediately based upon the insufficiency of the evidence presented, reprosecution would be impermissible, and therefore, the decision would not be appealable. *People v. Brown*, 40 N.Y.2d 381 (1976), *cert. den.*, 429 U.S. 975 (1976). A decision issued after a verdict has been rendered, however, is appealable, since upon reversal, the appellate court may reinstate the verdict and avoid the problems caused by defendant's constitutional privilege against double jeopardy. *People v. Leach*, 46 N.Y.2d 821 (1978).

Last year's proposal has been revised to clarify that where the jury is discharged before a verdict is rendered (*see*, CPL §310.60), the court shall proceed to determine any outstanding motion for a trial order of dismissal. Also, this year's proposal provides that, upon a retrial following discharge of the jury under section 310.60, the indictment will be deemed to contain all counts contained therein at the start of the original trial except those dismissed or deemed to have resulted in acquittal upon motion pursuant to section 290.10(1).

I. Separation of Jury During Deliberations.

It is recommended that section 310.10 of the Criminal Procedure Law be amended to permit a deliberating jury to separate temporarily, including overnight and on weekends and holidays, with the consent of the parties. This would facilitate and encourage jury service, reduce the potentially coercive impetus to arrive at a prompt verdict and save the expense necessitated by prolonged sequestration in cases in which there is no likelihood of jury tampering or influence.

Section 310.10 now provides that a deliberating jury "must be continuously kept together under the supervision of a court officer or court officers" or other personnel. This requires that deliberating jurors be kept in hotel rooms or other accommodations, fed and guarded during deliberations. This rule is in marked contrast to the more flexible approach employed in the federal courts, where sequestration is within the court's discretion.

Our proposal would amend New York's rigid rule by allowing dispersal when the parties consent. Consent should be the rule rather than the exception. In most cases the jury is not sequestered during the trial itself, and the possibility that the jurors will defy the court's instructions and read about or discuss the case with outsiders, or that the jurors will be tampered with, should be no greater during deliberations. The possibility of exposure to news reports may be less during deliberations when the media no longer have any new evidence to report.

It is undisputed that this proposal would have a favorable impact on the State budget. An evaluation of costs of sequestering juries has indicated that its enactment could result in a saving of approximately $1,200 to $1,500 for each day a jury is not sequestered when it normally would have been, and the total potential savings in expenses for meals, lodging and transportation for jurors and overtime pay for court personnel could exceed $700,000.

J. Prosecution of Superseding Indictments.

It is recommended that section 450.50 of the Criminal Procedure Law be amended to permit the People to retry an indictment after an unsuccessful appeal of an order granting a motion to suppress when newly discovered evidence, not available at the time the appeal was taken, indicates that prosecution is in the interest of justice.

When the People take an appeal from an order suppressing evidence, they must first file a statement asserting that the deprivation of the use of the suppressed evidence has rendered the sum of the proof available to the People either insufficient as a matter of law or so weak in its entirety that any reasonable possibility of prosecuting the charge to a conviction has been effectively destroyed. CPL §450.50(1). If the appeal is unsuccessful and the order is not reversed by the appellate court, the taking of the appeal "prohibits subsequent prosecution of the same defendant upon either the same or a superseding accusatory instrument for the crimes charged in the original instrument, at least in the absence of extraordinary circumstances." *Forte v. Supreme Court of the State of New York*, 48 N.Y.2d 179, 188 (1979); CPL §450.50(2).

Our proposal would specifically define the extraordinary circumstances alluded to in *Forte* and remove the absolute bar to prosecution in those instances where it would unduly encumber the administration of justice. For example, a literal interpretation of the existing statute would bar the prosecution of a defendant who voluntarily confesses to the crime after the People have filed their required statement. The dissent in *Forte* called for legislative action to correct the injustice which occurs when evidence not previously available to the District Attorney later becomes available. 48 N.Y.2d at 191.

Our proposal would codify that suggestion and eliminate a potential injustice in those rare instances when a court determines that subsequent developments should allow the prosecution to proceed.

K. Justice Who May Grant Leave to Appeal.

It is recommended that section 460.20 of the Criminal Procedure Law be amended to provide that permission to appeal to the Court of Appeals from an order of an appellate division may not be sought from a justice who did not participate in the determination.

Section 460.20 now allows permission to be granted by any "justice of the appellate division of the department which entered the order sought to be appealed." Although this appears to encourage "judge-shopping," in practice, permission to appeal usually is sought only from an appellate justice who dissented in the case. Nevertheless, where the application is made to one who did not hear the arguments or participate in the decision, the unmistakable inference is that he or she has been selected because the appellant perceives a predisposition to the appellant or to a particular side, defense or prosecution. Although this perception may be incorrect, the choice of a nonparticipating justice gives the appearance of impropriety and should not be permitted.

This proposal recently was cited with approval by the Court of Appeals in its unanimous decision in *People v. Dorta*, 46 N.Y.2d 818 (1978). That case was before the Court of Appeals by permission of a justice of the appellate division who did not participate in the determination sought to be appealed. The Court of Appeals commented:

> . . . While such procedure is presently authorized (CPL 460.20 subd. [2], par. [a]), we believe the better practice to be that which was recently advocated by the Advisory Committee on Criminal Law and Procedure — to wit, that an appellant be prohibited from seeking leave to appeal to the Court of Appeals from a Justice of the Appellate Division who did not participate in the determination of the case. 46 N.Y.2d at 821.

L. Use of Conditional Examinations.

Two years ago, we recommended an amendment to article 660 of the Criminal Procedure Law to authorize the videotaping of conditional examinations, to expand authorization for use of these examinations and to expand the use of prior testimony in general. Although authorization for videotaping was adopted in the 1979-80 session of the Legislature, the remainder of the Committee's proposal was not passed. It is now recommended that section 660.20 be amended to allow conditional examinations of witnesses where there is a showing of an attempt to induce the witness to be absent or otherwise unavailable to testify, and to permit the use of prior testimony given at any pre-trial hearing when all statutory conditions are met.

The expansion of the use of conditional examinations to situations where there is an attempt to induce the witness to be asent is a reasonable response to those rare situations in which this authority is necessary. This is especially true now that the examination may be videotaped, thereby enabling the trier of fact to obtain a complete view of the witness as well as a transcript of the testimony.

Authority to use transcripts of prior testimony given at pre-trial hearings is likewise reasonable and desirable, since the statute already permits the use of previous testimony given at preliminary hearings upon felony complaints. Other previous testimony is no less reliable and, therefore, also should be admissible when all other statutory requirements are met. The United States Supreme Court recently has determined that the use of the previous testimony of an unavailable witness does not violate the confrontation clause of the United States Constitution when adequate safeguards similar to those applicable in New York exist to ensure the reliability of the testimony. *State of Ohio v. Roberts*, 100 S. Ct. 2531 (1980).

M. Identification Order.

It is recommended that the Criminal Procedure Law be amended by adding a new article 695 to provide a comprehensive statutory formulation for judicially-sanctioned nontestimonial identification procedures. This recommendation is the product of our detailed study of various proposals to codify investigatory procedures in New York State, and based upon our review of the Model Code of Pre-Arraignment Procedure.

The principal features of our proposal are as follows:

Proposed Section 695.05

The basic approach of this recommendation is to provide a procedure whereby a prosecutor may obtain identification material in a reasonable manner which would not violate established constitutional principles. The United States Supreme Court in *Davis v. Mississippi*, 394 U.S. 721 (1969), indicated that the Court would uphold requiring persons to submit to reasonable identification procedures not involving Fifth Amendment testimonial rights, if prior judicial approval were obtained. This section would define the identification procedure in conformity with this stated objective.

Proposed Section 695.10

In compliance with the suggestion in *Davis v. Mississippi, supra*, this section would limit the use of an identification order to those narrowly defined circumstances in which a crime has been committed and the benefit to law enforcement outweighs the inconvenience imposed by granting the order.

Proposed Section 695.15

This section governs the specificity of information required to assist the court in making its determination whether to issue the order and to facilitate subsequent judicial review. The requirements seek to ensure that the degree of specificity in the application will meet constitutional standards. *See, Wise v. Murphy*, 275 A.2d 205 (D.C. App. 1971).

Proposed Section 695.20

This section prescribes the form and content of the identification order itself. The order is derived from the American Law Institute's model "Order to Appear for Identification Procedures" and is tailored to similar provisions governing applications for warrants under the Criminal Procedure Law. *See*, CPL §§ 690.45, 700.30.

Proposed Section 695.25

This section would require personal service of the identification order and the application unless the court directs dispensing with service of the application. Service shall be completed within five days of the date of issuance, and the order may be served only between the hours of 8:00 a.m. and 8:00 p.m. unless the court finds that urgent circumstances exist to justify authorizing service at other times.

Proposed Section 695.30

Contempt of court is the appropriate authorized sanction to be imposed for failure to comply with an identification order. The United States Supreme Court has upheld the contempt sanction to enforce grand jury subpoenas requiring persons to furnish voice and handwriting exemplars, *United States v. Dionisio*, 410 U.S. 1 (1973), and the Fourth Circuit Court of Appeals upheld a conviction for contempt where a defendant refused to comply with a court order requiring him to appear in a linup. *United States v. Hammond*, 419 F.2d 166 (1969), *cert. den.*, 397 U.S. 1068 (1970).

Proposed Section 695.35

A motion to vacate is expressly made available to a person subject to an identification order. The subject of the order may challenge it on the grounds that it was improperly issued or that the requested evidence could have been obtained by other means. This section would also provide that a person may be compelled to give the requested evidence without receiving immunity therefor. *See, Schmerber v. California*, 384 U.S. 757 (1966).

Proposed Section 695.40

The key feature of this section is that no person may be subjected to investigative questioning while being detained pursuant to an identification order. This provision would serve to satisfy the objectives of the proposal while ensuring respect for a person's Fifth Amendment rights. *See, Dunaway v. New York*, 442 U.S. 200 (1979).

Proposed Section 695.45

The identification order shall be returned to the issuing judge within the specified time period, and, if the order was implemented, the return shall contain a description of the evidence obtained.

Proposed Section 695.50

This section would mandate the confidentiality of all papers, applications and orders, except as may be provided by court order upon application of the subject of the identification order or the applicant.

As stated previously, our proposal also includes the recommended amendment to section 240.40 of the Criminal Procedure Law explained in item "E" of this report. That proposal expands the court's authority to order discovery of nontestimonial evidence to cases in which a felony or misdemeanor complaint is pending.

The enactment of this proposal would have a significant impact upon the criminal justice process. There is now no statutory authority in New York regulating procedures for obtaining identification evidence. If the police have sufficient evidence to establish probable cause to arrest a person, they may proceed with their investigation. If, however, the evidence does not satisfy the probable cause standard but does meet the criteria established by this proposal, under existing statutory law, there is no way that the police can secure the presence of a person who does not consent to the identification. As stated in the commentary to the American Law Institute's Model Code of Pre-Arraignment Procedure:

> A strict adherence to the standard of probable cause for detentions to conduct identification procedure not only hinders the police in their efforts to gather evidence, but also encourages them to use arrest in cases where there may not be reasonable cause. In many cases the police have sufficient evidence to justify a lawful arrest, yet further investigation is called for before a decision to institute criminal proceedings is warranted. Since, under generally prevailing law, sufficient grounds to arrest are required to obtain identification evidence, the police may arrest before conducting such procedures and then determine whether to charge the suspect with the crime. If, as a result of the evidence obtained from such post-arrest procedures the suspect is found to be innocent of the crime under investigation and released without further judicial proceedings, he still [must bear the consequences of an arrest].

N. Summary Dismissal of Motions to Suppress Evidence.

It is recommended that section 710.60 of the Criminal Procedure Law be amended to allow a court to dismiss summarily a motion to suppress statements when the movant fails to provide sworn allegations of fact to support the motion. This procedure has been upheld, under existing law, by the Appellate Division, Second Department. *People v. Roberto H.*, 67 AD 2d 549 (2d Dept., 1979). Our proposal would merely codify that decision. The Criminal Procedure Law "...does not require a hearing on a motion to suppress without regard to whether there is any basis for such motion, and without regard to the factual showing made in support of such motion." 67 AD 2d at 553. By requiring a factual showing, this measure will discourage *pro forma* motions which unnecessarily burden our court system.

O. Waiver of Appeal from Denial of Motion to Suppress Evidence.

It is recommended that section 710.70 of the Criminal Procedure Law be amended to permit a defendant to waive his right to appeal the denial of a motion to suppress.

Section 710.70(2) now provides that "[a]n order finally denying a motion to suppress evidence may be reviewed upon an appeal from an ensuing judgment of conviction notwithstanding the fact that such judgment is entered upon a plea of guilty." This provision enables a defendant, after his motion to suppress is denied, to plead guilty to the charges and save the time and expense of a trial when his main defense was based upon the suppression of evidence. A defendant in this position is not required to go through an entire trial simply to preserve an issue on appeal.

There are, however, many cases in which, as part of a negotiated plea, the defendant pleads guilty to a lesser charge or pleads guilty to a charge in one indictment to cover several other indictments. In these cases, the defendant has made a bargain and received a benefit for his agreement to conviction for a particular crime. Nevertheless, on appeal, he may continue to argue that he should be relieved of the bargain which he freely made. This increases the heavy burden on our appellate courts, and, if the conviction is ultimately reversed, the passage of time may have severely impaired the prosecution's case.

Our proposal would codify existing caselaw which authorizes a court to accept a waiver of appeal from a defendant who pleads guilty to a lesser charge. It is certainly not unfair to require a defendant as part of a plea bargain to recognize that the bargain is final and that previous rulings are out of the case. The defendant still could appeal the excessiveness of his sentence or anything else not included in the agreement.

The Court of Appeals has expressly upheld this practice and the Appellate Division, Second Department, has suggested in an opinion that the Legislature should address this issue. *People v. Williams*, 36 N.Y.2d 829 (1975); *People v. Navarro*, 61 A.D2d 534 (1978).

P. Disclosure of Grand Jury Minutes Upon Removal to Family Court.

It is recommended that section 725.10 of the Criminal Procedure Law be amended to clarify provisions of law governing release of the grand jury minutes of a proceeding involving a juvenile offender whose proceeding has been removed to Family Court.

In *Matter of Glenford S.*, 103 Misc. 2d 896 (Fam. Ct., Kings Co. 1980), the Court noted that a literal interpretation of section 725.05 of the Criminal Procedure Law and section 731 of the Family Court Act would permit a respondent in Family Court automatically to gain access to the grand jury minutes of his proceeding and thereby to obtain greater rights than those afforded adult defendants under similar circumstances. The Court proceeded to construe these statutes in a manner designed to achieve the purpose intended by the legislation, while preserving the secrecy provisions governing disclosure of grand jury minutes.

The Family Court Advisory and Rules Committee specifically referred this matter to our Committee for consideration of proposing clarifying legislation. Our proposal would codify the decision in *Matter of Glenford S.*, by expressly providing that the grand jury minutes of transferred proceedings continue to be subject to the secrecy requirements of the Criminal Procedure Law and that Family Court be authorized to order disclosure to the extent permissible in criminal courts. *See*, CPL §§190.25(4), 210.30(3).

Q. Review of Reimbursement to Counsel Representing Indigent Defendants.

It is recommended that section 722-b of the County Law be amended to create a review mechanism to challenge the amount awarded as compensation to assigned counsel.

At the request of the Administrative Board, the Committee considered the development of a system of review of the amount of reimbursement given to assigned counsel in criminal cases. As a result of our study we recommend an amendment to section 722-b to provide a means whereby assigned counsel may challenge as inadequate the amount of compensation and expenses fixed by a Court for legal services rendered to an indigent defendant. Our proposal also would permit the municipality charged with paying this compensation to challenge the amount as excessive.

Under this proposal challenges shall be made by timely application to the appellate division of the judicial department embracing the county in which the legal services were rendered. No such application may be made, however, where it challenges an order of either the appellate division or the Court of Appeals which fixes compensation and expenses for assigned counsel in their respective courts.

There is now no statutory authority for judicial review of an order fixing compensation made under article 18-B of the County Law. When assigned counsel feels such compensation is inadequate or, conversely, when the municipality obligated to pay court ordered compensation feels the amount is excessive, the only recourse appears to be an appeal to the administrative authorities of the court system. *Matter of Werfel v. Agresta*, 36 N.Y.2d 624 (1975).

Our proposal supplies a specific statutory procedure for review of orders fixing compensation for assigned counsel. It gives the appellate divisions jurisdiction to conduct this review, recognizing that this responsibility will complement established authority of the appellate divisions to regulate the practice of law and oversee implementation of assigned counsel plans under article 18-B.

III. New Measures.

A. Corroborative Evidence Before a Grand Jury.

It is recommended that section 190.65 of the Criminal Procedure Law be amended to clarify that evidence before a grand jury is not legally sufficient unless it includes such corroborative evidence as would be required by law to sustain a conviction.

Prior to enactment of the Criminal Procedure Law, it was clear that uncorroborated accomplice testimony would be insufficient to support an indictment. *People v. Cilento*, 2 NY 2d 55; *People v. Nitzberg*, 289 NY 523; *People v. Sweeney*, 213 NY 37, *People v. Kohut*, 36 NY 2d 953. Under the Criminal Procedure Law, however, there is confusion on this issue. The Court of Appeals has not spoken, and the Appellate Divisions appear to go both ways. *People v. King*, 48 AD 2d 457 (1st Dept., 1975), *People v. Clarkson*, 50 AD 2d 903 (2nd Dept., 1975) [holding that corroboration is not required]; *People v. Laws*, 54 AD 2d 518 (3rd Dept., 1976) [holding that corroboration is required]. Reluctantly relying on the *King* and *Clarkson* cases, one court has recently held that corroboration of a confession (*see*, CPL §60.50) is not required for indictment. *People v. Kazmarick*, 99 Misc. 2d 1012 *aff'd without op.*, 75 AD 2d 1026, *aff'd on other grounds* 52 NY 2d 322.

Our proposal would resolve this uncertainty by clarifying that corroborative evidence must be presented to the grand jury in all cases where it would be necessary to sustain a conviction at trial. This resolution is consistent with original practice under the Code of Criminal Procedure in accomplice cases, current decisional law requiring that indictments be supported by corroborative evidence requisite to conviction in non-accomplice cases (*see, People v. Pawley*, 71 AD 2d 307 (4th Dept., 1979), *People v. Thompson*, 30 NY 2d 971 [involving sex crimes]; *People v. Rinaldi*, 44 AD 2d 745, *aff'd* 34 NY 2d 843 [involving perjury]) and the literal terms of present CPL sections 190.65 (1)(a) and 70.10(a) (*see, People v. Murray*, 88 Misc. 2d 668 (Co. Ct., Suffolk Co., 1976)).

B. Affirmative Defense of Temporary Possession of a Weapon.

It is recommended that the Penal Law be amended by adding thereto a new section 265.06 to establish the affirmative defense of temporary possession of a weapon.

Under present New York law, there are a variety of defensive assertions which may be made at a trial for criminal possession of a weapon. In particular, they include failure of the prosecution to prove the required culpable mental state and statutory exemption as provided by section 265.20 of the Penal Law. They also include a caselaw-established "defense" of temporary possession of a weapon. This defense has been termed "innocent possession" (*People v. Williams*, 50 NY 2d 1043), "temporary and incidental possession" (*People v. Quintana*, 260 AD 12) and "temporary lawful possession" (*People v. Davis*, 61 AD 2d 760).

This caselaw "defense" is overly broad and ill-defined, as result of which there have been a number of unfounded assertions of it. *See, e.g., People v. Williams, supra*. Moreover, the cases are silent as to whether the "defense" is to be disproved by the People beyond a reasonable doubt. But see *People v. Williams, supra* at p. 1046 [Fuchsberg, Jr., dissenting]. Under these circumstances, trial courts are without guidance in properly charging juries.

We recommend creation of the affirmative defense of temporary possession of a weapon so as to narrow the ambit of defensive assertions which can be successfully advanced at trial. By placing a burden of proof upon the defendant to establish temporary possession by a preponderance of the evidence (Penal Law §25.00(2)), the number of unfounded defensive assertions should thereby be reduced. Under our proposal, defendant must show: (1) that he found the weapon or confiscated it from someone possessing it illegally or from someone whom he reasonably believed had used or might use it illegally, (2) that he intended to turn the weapon over to the authorities, or to render it permanently inoperable or inaccessible to anyone and was pursuing that intent "with immediacy and through a reasonable course of conduct," and (3) that he did not use the weapon illegally.

This measure does not violate due process (*see Commonwealth v. Abken*, 391 A2d 672 [Pa. Super. Ct.], *aff'd sub nom. Abken v. Pennsylvania*, 440 U.S. 952), and properly makes temporary possession of a weapon an affirmative defense. Like other affirmative defenses under the Penal Law, it represents a means of vindication which is collateral to and distinct from the prosecution's case. Also, like other affirmative defenses, it is generally based upon information likely to be known by the defendant alone.

C. Statements Involuntarily Made to Non-Public Servants.

It is recommended that section 710.20(3) of the Criminal Procedure Law be amended to provide that a defendant may seek, at a pre-trial hearing, suppression of alleged involuntary statements made by him to any person.

Section 60.45(1) of the Criminal Procedure Law provides that evidence of a defendant's confession to a crime may not be received in evidence against him in a criminal proceeding if the confession were involuntarily made. *See generally, Jackson v. Denno*, 378 U.S. 368 (1964); *People v. Huntley*, 15 NY 2d 72 (1965). Implementing this section, section 710.20 (3) now supplies a procedural vehicle for excluding such a confession where it was made to a public servant engaged in law enforcement activity. Notwithstanding the fact that the courts have clearly held that a pre-trial hearing is likewise necessary where the confession is made to a private citizen (*see, People v. Harden*, 17 NY 2d 470 (1965); *People v. Frank*, 52 Misc. 2d 266 (Sup. Ct., NY Co., 1966); *People v. Agnostopulos*, 77 Misc. 2d 668 (Co. Ct., Fulton Co., 1974)), the CPL supplies no comparable procedural device to be employed in that event. This measure would fill the void by extending the CPL's suppression procedures to involuntary confessions made to private citizens.

D. Appeals to the Court of Appeals.

It is recommended that subdivision two of section 450.90 of the Criminal Procedure Law be amended to permit the Court of Appeals to review an unpreserved question of law decided by an appellate division as a matter of discretion in the interests of justice.

In a criminal case, an order of an appellate division reversing a conviction generally is appealable to the Court of Appeals. CPL §450.90(2).

Although the jurisdictional statute recently has been amended to provide for an appeal in certain instances where an appellate division reversal is stated to be on the law and the facts, the Court of Appeals has not applied the amendment to reversals in the interests of justice as an exercise of discretion. *See, People v. Moses*, 52 NY 2d 894 (1981); *People v. Humphrey*, 50 NY 2d 925 (1980); *People v. Lanzot*, 49 NY 2d 796 (1980); *People v. Clemons*, 49 NY 2d 795 (1980).

The mere recital in the appellate division's order that it is on the law does not give rise to an appeal; the Court of Appeals looks beyond the order to determine the accuracy of the recital. Upon this examination, if it is discovered that the order is not on the law alone, the appeal is dismissed. *People v. Johnson*, 47 NY 2d 124, 126 (1979).

This situation is most significant when an appellate division reverses on the basis of an unpreserved error of law. Since no reviewable question of law is presented when the asserted error is not preserved, an appellate division order reversing a conviction based upon an unpreserved error cannot be on the law alone. *People v. Johnson, supra; People v. Williams,* 31 NY 2d 151 (1972). Therefore, under these circumstances, the reversal must be predicated upon an exercise of an appellate division's long-standing interest of justice jurisdiction, which allows that court to reverse a conviction in the court's discretion where justice so requires. CPL §470.15(6)(a). In this instance, since the order is not on the law alone, even though it recites otherwise, no appeal to the Court of Appeals is permitted. *People v. Johnson, supra; People v. Williams, supra.*

Applying these principles, the Court of Appeals in *People v. Cona* (49 NY 2d26 (1979)), determined that it had no power to review an unpreserved error which was used as a basis for reversal by an appellate division even though the reversal appeared to be based upon an erroneous ruling of law. The existing statutory framework which leads to this undesirable result requires that where an appellate division has ruled in a defendant's favor based upon what may be a misapplication of existing law, the Court of Appeals is powerless to review and if necessary, correct the misapplication of the court below solely because the defendant failed to preserve the issue for review by raising an objection to the asserted error in the trial court.

This undue restriction upon the Court of Appeals' authority is unnecessary since, other than the constitutional provision precluding review of the underlying factual basis in criminal cases, the Court of Appeals' and an appellate division's jurisdiction and corrective action and general review powers have always been conferred pursuant to statute. *See* N.Y. Const. Art. VI, §3(a); CPL §§470.15, 470.30 and 470.35. Therefore, corrective action in the form of a statutory revision as proposed by this measure, may be enacted to remedy the unyielding rule that once an appellate division has exercised its discretion to address an unpreserved error, its interests of justice jurisdiction necessarily insulates erroneous determinations of law from further review. *See, People v. Cona, supra; People v. Johnson, supra.*

The Court of Appeals should not be deprived of the power to review pure questions of law decided by an appellate division simply because the appellate division determined in the first instance to relieve a party of the disability created by its failure to object at trial. Furthermore, the District Attorney who had no reason or occasion to object at trial should not suffer a final unreviewable rebuff from the intermediate appellate court based solely upon the inaction of the defendant. In addition to raising significant policy questions, the ramifications of the existing rule might even provide an opportunity for tactical or strategic mischief.

This measure would eliminate the deleterious effect of the existing rule by authorizing appeals to the Court of Appeals in those instances where an intermediate appellate court's reversal or modification was upon the law and such facts or discretion which, but for the determination of law, would not have led to reversal or modification. In this manner, a serious jurisdictional defect would be corrected, and the Court of Appeals would be able to review pure and significant questions of law injected in the case by virtue of an appellate division's determination to address the unpreserved matter in its discretion, without the Court of Appeals interfering with an appellate division's jurisdiction to review criminal cases in the interests of justice. The constitutional limitations and the general rule requiring preservation would be maintained while ensuring that genuinely worthy cases receive proper review by our State's highest court.

E. Examination as to Source of Cash Bail of $10,000 or More.

It is recommended that sections 500.10 and 520.15 of the Criminal Procedure Law be amended, and that new section 520.16 be added, in order to provide a procedure for examining the source of cash bails in the amount of $10,000 or more.

It has long been the policy of this State that courts should not approve the posting of bail bonds without some inquiry as to their sufficiency or propriety. Section 520.30 of the Criminal Procedure Law, designed to prevent the "laundering" of monies by means of a bail bond, reflects this policy. See also former CCP §§573-577-a. The Criminal Procedure Law is silent, however, as to the need for any comparable inquiry with respect to cash bail. *See,* CPL §520.15 [providing only that cash bail is available in every case, and that upon the mere deposit of cash bail with the appropriate agency a defendant must be released]. Without such an inquiry, it becomes entirely possible that defendants will be released upon the posting of cash bail--with the cash being the fruits of the very crime with which they are charged.

Our proposal is designed to foreclose such an undesirable result by providing the cash bail greater than $10,000 may not be posted without prior judicial scrutiny comparable to that now required upon the posting of a bail bond.

F. Telephonic Search Warrant.

It is recommended that article 690 of the Criminal Procedure Law be amended to provide that an application for a search warrant may be made orally to a judge, via telephone or other electronic means.

The principal features of this proposal include:

Amendment to §690.35

This section now requires that an application for a search warrant be written. Our proposal would provide that, in the alternative, it may be oral, provided it is "sworn to and recorded in the manner provided in [new] section 690.36."

New §690.36

This proposed new section describes procedures to be followed upon an oral application for a search warrant. *First*, such an application must be by telephone, radio or other means of electronic communication. *Second*, the court must provide for recording the oral application, the substance of which shall be the same as in a written application, and any ensuing discussion—either by a voice recording device or verbatim stenographic or longhand notes. A transcription of this recording, or a copy of the notes, shall then be filed with the court. *Third*, the applicant and any other person supplying information in support of the application must be placed under oath.

Amendment to §690.40

Our proposal would add a new subdivision three to section 690.40 to provide that once a judge determines to issue a warrant, based upon on oral application, the applicant shall prepare it and read its contents to the judge. In such fashion, the text of the warrant will be recorded for the court—along with the time and date of issuance and the name of the issuing judge (*see* proposed amendments to §§690.45, *infra*).

Amendments to §690.45

Complementing proposed new section 690.40(3)'s requirement that the text of the warrant be memorialized, section 690.45 would be amended to mandate that a search warrant obtained on an oral application state the name of the issuing judge and the time and date on which issuance of the warrant was directed.

The principal advantage to authorizing oral application for a search warrant lies in the time it will save law enforcement officials in the procurement of the warrant. This savings of time will not only facilitate the work of police agencies, but will also promote greater protection of Fourth Amendment rights by reducing the need for resort to judicially-created exceptions to the constitutional prohibition to warrantless searches. *See*, Notes of Advisory Committee on Rules, Fed. R. Crim. P. 41 3 U.S.C. app R. 41 at 436.

Under present warrant application procedures, a police officer seeking to obtain an arrest warrant can expect to expend considerable time and energy attending to the details of preparing a written application and locating a judge to review it. Unfortunately, however, he is often faced with situations where time is of the essence—i.e., where he fears that evidence may be lost or destroyed if a search and seizure are not promptly carried out. In such situations, he may determine to forego the search altogether or to proceed without a warrant if the circumstances seem to present one of the exceptions to the warrant requirement. In the latter case, of course, he thereby risks the possibility that the evidence seized will later be suppressed by a court which disagrees with his analysis of the circumstances and rules his warrantless search and seizure illegal.

Oral application procedures offer an attractive solution to this frequently faced quandary. Properly designed, they permit a police officer to relay his application for a search warrant to a judge without any need to spend time travelling back and forth; indeed, oftentimes the police officer will be able to remain at the site where the search is to take place while making his application. At the same time, the availability of oral application procedures will reduce the need to rely on doctrines such as the exigent circumstances doctrine, which courts have evolved to justify warrantless searches. Thus, the occasions where members of the public will be subject to warrantless intrusions on their privacy by government officials will be minimized.

Oral application procedures are now authorized in several jurisdictions, notably in California and in the federal courts. West's Ann. Cal. Pen. Code §§1526(b), 1528(b); Fed. R. Crim. P. 41(c)(2) [amended in 1976, at the request of the U.S. Supreme Court, to authorize telephonic search warrants]; *see also* National Advisory Commission on Criminal Justice Standards and Goals, Report on Police 95-96 (1973) [Police task force report of L.E.A.A. strongly recommending enactment of laws to permit oral search warrants], *People v. Brown*, 40 NY 2d 183, 185, 186 (1976) [approving a face-to-face oral search warrant application, under New York's present statutory formulation, where the application is recorded stenographically]. The constitutionality of the California statutory formulation has been upheld in the courts (*People v. Peck*, 38 Cal. App. 3d 993 (1974)), while the Second Circuit Court of Appeals has approved the use of oral oaths taken over the telephone (*United States v. Turner*, 558 F. 2d 46 (2d Cir. 1977).

IV. Text of Proposals.*

AN ACT

To amend the criminal procedure law, in relation to warrant of arrest

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions twenty-eight and twenty-nine of section 1.20 of the criminal procedure law are amended to read as follows:

28. ["Warrant] *(a) "Warrant of arrest"* means a *process of a criminal court, more fully defined in subdivisions three and four of section 120.10, directing a police officer to arrest a person.*

(b) "Local criminal court warrant of arrest" means a [process] *warrant of arrest* of a local criminal court

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* Note: Proposals are set forth here in the order in which they are discussed in parts II and III, *supra*

[, more fully defined in section 120.10,] directing a police officer, *pursuant to article 120,* to arrest a defendant and to bring him before such court for the purpose of arraignment upon an accusatory instrument filed therewith by which a criminal action against him has been commenced.

[29.] *(c)* "Superior court warrant of arrest" means a [process] *warrant of arrest* of a superior court directing a police officer, *pursuant to subdivision three of section 210.10,* to arrest a defendant and to bring him before such court for the purpose of arraignment upon an indictment filed therewith by which a criminal action against him has been commenced.

§2. Sections 120.10, 120.20, 120.30 and 120.40 of such law, section 120.10 as amended by chapter eight hundred forty-three of the laws of nineteen hundred eighty, section 120.40 as amended by chapter sixty-one of the laws of nineteen hundred seventy-three, are amended to read as follows:

§120.10 Warrant of arrest; definition, function, form and content. 1. A *warrant of arrest is a process of a criminal court directing a police officer to arrest a person.*

2. A local criminal court warrant of arrest is a [process] *warrant of arrest* issued by a local criminal court directing a police officer or a peace officer appointed by the state university to arrest a defendant designated in an accusatory instrument filed with such court and to bring him before such court in connection with such instrument. The sole function of a *local criminal court* warrant of arrest is to achieve a defendant's court appearance in a criminal action for the purpose of arraignment upon the accusatory instrument by which such action was commenced.

[2] *3.* A warrant of arrest must be subscribed by the issuing judge and must state or contain (a) the name of the issuing court, and (b) the date of issuance of the warrant, and (c) the name or title of an offense [charged in the underlying accusatory instrument] *for which the person is to be arrested,* and (d) the name of the [defendant] *person* to be arrested or, if such be unknown, any name or description by which he can be identified with reasonable certainty, and (e) the police officer or officers or peace officers appointed by the state university to whom the warrant is addressed, and (f) a direction that such officer arrest [the defendant] *such person,* and *(g) where the warrant of arrest issued upon an accusatory instrument, a direction to* bring him before the issuing court.

[3.] *4.* A warrant of arrest may be addressed to *any police officer,* a classification of police officers, or to two or more classifications thereof, as well as to a designated individual police officer or officers, as well as to peace officers appointed by the state university. Multiple copies of such a warrant may be issued.

§120.20 Warrant of arrest; when issuable. 1. When a criminal action has been commenced in a local criminal court by the filing therewith of an accusatory instrument, other than a simplified [traffic] information against a defendant who has not been arraigned upon such accusatory instrument and has not come under the control of the court with respect thereto, such court may, if such accusatory instrument is sufficient on its face, issue a *local criminal court* warrant *of arrest* for such defendant's arrest.

2. (a) Where a person may be arrested for a crime pursuant to section 140.10, a police officer or a district attorney may apply to a criminal court for a warrant of arrest. Upon such application, if the criminal court is satisfied that an arrest of such person is authorized by section 140.10, the court may issue the warrant.

(b) An ex parte application for such warrant must be submitted to a judge of a criminal court and it must be in writing, subscribed and sworn to by the applicant, or be made orally by the applicant, under oath, to the issuing judge and recorded verbatim. The application must contain:

(i) The name of the court, the name and title of the applicant, and the date of the application;

(ii) A statement that an arrest of a named person (or, if such be unknown, any name or description by which such person can be identified with reasonable certainty) for a specified crime is authorized by section 140.10;

(iii) Allegations of fact supporting such statement. Such allegations of fact may be based upon personal knowledge of the applicant or upon information and belief. The applicant may also submit depositions of other persons containing allegations of fact, based upon personal knowledge or upon information and belief, supporting or tending to support those contained in the application. Allegations based upon information and belief shall include the source of such information and the grounds of such belief; and

(iv) A request that the court issue the warrant.

[2]*3.* Even though such accusatory instrument *or application, as the case may be,* is sufficient on its face, the court may refuse to issue a warrant of arrest based thereon until it has further satisfied itself, by inquiry or examination of witnesses, that there is reasonable cause to believe that the defendant committed an offense charged. Upon such inquiry or examination, the court may examine, under oath or otherwise, any available person whom it believes may possess knowledge concerning the subject matter of the charge.

[3]*4.* Notwithstanding the provisions of subdivision one, if a summons may be issued in lieu of a *local criminal court* warrant of arrest pursuant to section 130.20, and if the court is satisfied that the defendant will respond thereto, it may not issue a *local criminal court* warrant of arrest.

§120.30 Warrant of arrest; by what courts issuable and in what courts returnable. 1. A *warrant of arrest may be issued by a criminal court with geographical jurisdiction of a crime specified in the application submitted to it pursuant to subdivision two of section 120.20*

2. A local criminal court warrant of arrest may be issued only by the local criminal court with which the underlying accusatory instrument has been filed, and it may be made returnable in such issuing court only.

[2] *3.* The particular local criminal court or courts with which any particular local criminal court accusatory instrument may be filed for the purpose of obtaining a *local criminal court* warrant of arrest are determined, generally, by the provisions of section 100.55. If, however, a particular accusatory instrument may pursuant to said section 100.55 be filed with a particular town court and such town court is not available at the time such instrument is sought to be filed and a warrant obtained, such accusatory instrument may be filed with the town court of any adjoining town of the same county. If such instrument may be filed pursuant to said section 100.55 with a particular village court and such village court is not available at the time, it may be filed with the town court of the town embracing such village, or if such town court is not available either, with the town court of any adjoining town of the same county.

§120.40 Warrant of arrest; attaching accusatory instrument to warrant of town court or village court. A town court or a village court which issues a *local criminal court* warrant of arrest may attach thereto a duplicate copy of the underlying accusatory instrument. If one or more duplicate copies of the warrant are issued, such court may attach as many copies of such accusatory instrument to copies of such warrant as it chooses. In any case where, pursuant to subdivision five of section 120.90, a defendant arrested upon such a warrant of arrest is brought before a local criminal court other than the town court or village court in which the warrant is returnable, a copy of the accusatory instrument constitutes a valid basis for arraignment as provided in subdivision one of section 170.15.

§3. Section120.50 of such law is REPEALED.*

§4. Section 120.90 of such law is amended by adding a new subdivision eight, to read as follows:

8. *Notwithstanding the foregoing provisions of this section, the procedure following an arrest upon a warrant of arrest issued pursuant to subdivision two of section 120.20 shall be as provided in section 140.20. Further, within a reasonable time after the arrest of a person pursuant to such warrant, a police officer shall return the warrant to the issuing court and file with it a report of the time and place of the arrest and a report as to which of the procedures of section 140.20 were followed. The failure to file such report shall not be grounds for invalidating the arrest or the evidence derived from the arrest.*

§5. This act shall take effect immediately.

AN ACT

To amend the criminal procedure law and the judiciary law, in relation to the adoption of forms for use in the criminal courts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The criminal procedure law is amended by adding a new section 10.40 to read as follows:

§10.40 Chief administrator to prescribe forms. The chief adminstrator of the courts shall have the power to adopt, amend and rescind forms for the efficient and just administration of this chapter. A failure by any party to submit papers in compliance with forms authorized by this section shall not be grounds for that reason alone for denial or granting of any motion.

§2. Subdivision two of section two hundred twelve of the judiciary law is amended by adding a new paragraph (f) to read as follows:

(f) Have the power to prescribe forms pursuant to section 10.40 of the criminal procedure law.

§3. This act shall take effect immediately.

AN ACT

To amend the criminal procedure law, in relation to the immunity received by grand jury witnesses to make clear that no immunity results from the giving of nontestimonial identification evidence which the witness would have no constitutional privilege to withhold

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 190.40 of the criminal procedure law, paragraph (c) of subdivision two thereof as added by chapter four hundred fifty-four of the laws of nineteen hundred seventy-five, is amended to read as follows: §190.40 Grand jury; witnesses, compulsion of evidence and immunity. 1. Every witness in a grand jury proceeding must give any evidence legally requested of him regardless of any protest or belief on his part that it may tend to incriminate him.

2. [A witness who gives evidence in a grand jury proceeding] *In a grand jury proceeding, a witness who is required to give evidence under subdivision one which he would otherwise be entitled to withhold by virtue of the privilege against self-incrimination,* receives immunity unless:

(a) He has effectively waived such immunity pursuant to section 190.45; or

(b) Such evidence is not responsive to any inquiry and is gratuitously given or volunteered by the witness with knowledge that it is not responsive.

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*Note: CPL 120.50 is repealed by this act since its provisions are included within subdivision three of CPL 120.10

[(c) The evidence given by the witness consists only of books, papers, records or other physical evidence of an enterprise, as defined in subdivision one of section 175.00 of the penal law, the production of which is required by a subpoena duces tecum, and the witness does not possess a privilege against self-incrimination with respect to the production of such evidence. Any further evidence given by the witness entitles the witness to immunity except as provided in subparagraph (a) and (b) of this subdivision.]

§2. This act shall take effect immediately.

AN ACT

To amend the criminal procedure law, in relation to bills of particulars and repealing section 200.90 of the criminal procedure law relating thereto*

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 200.90 of the criminal procedure law is REPEALED and a new section 200.90 is added to read as follows:

§200.90. 1. Upon a timely demand to produce a bill of particulars by a defendant against whom an indictment, superior court information, prosecutor's information or information is pending, the prosecutor shall serve upon the defendant or his attorney, and file with the court, a bill of particulars within twenty days of the service of the demand or as soon thereafter as is practicable. A demand for a bill of particulars shall be timely if made within thirty days after arraignment and before the commencement of trial. If the defendant is not represented by counsel, and has requested an adjournment to obtain counsel or to have counsel assigned, the thirty-day period shall commence, for purposes of a demand for a bill of particulars by the defendant, on the date counsel initially appears on his behalf. However, the court may direct compliance with a demand to produce a bill of particulars that, for good cause shown, could not have been made within the time specified.

2. A demand for a bill of particulars shall be in writing, shall request and specify items of factual information desired by the defendant which pertain to the charge, or the substance of defendant's conduct encompassed by the charge, and which are not recited in the indictment, and shall allege that the defendant cannot adequately prepare or conduct his defense without such information.

3. The prosecutor may refuse to produce a bill of particulars or any portion of a bill of particulars which he reasonably believes is not required to be produced pursuant to a demand for a bill of particulars. Such refusal shall be made in writing, which shall set forth the grounds of such belief as fully as possible, consistent with the objective of the refusal. The refusal shall be served upon the defendant and a copy shall be filed with the court.

4. In the event the prosecutor unjustifiably fails to furnish or refuses to furnish a bill of particulars or any portion of a bill of particulars within the twenty-day time period prescribed in subdivision one, the court may, upon motion of the defendant, order the prosecutor to file a bill of particulars with the court and to serve a copy thereof upon the defendant or his attorney.

5. A motion for a bill of particulars shall be in writing, shall request and specify items of factual information desired by the defendant which pertain to the charge, or the substance of defendant's conduct encompassed by the charge and which are not recited in the indictment, and shall allege that the defendant cannot adequately prepare or conduct his defense without such information. A motion by a defendant for a bill of particulars shall be made as prescribed in section 255.20.

6. In the event that a bill of particulars produced by the prosecutor pursuant to subdivision five is regarded as defective or insufficient by the defendant, the court may, upon timely motion, order the prosecutor to file an amended bill of particulars. Such motion shall be made pursuant to subdivision four and shall be timely if made within five days of receipt of the bill of particulars.

7. If the court is satisfied that any or all of the items of information requested are necessary to enable the defendant adequately to prepare or conduct his defense, it shall grant the motion as to every such necessary item and order the prosecutor to file and serve a bill of particulars accordingly. Nothing contained in this section, however, authorizes an order for a bill of particulars which requires the people to recite matters of evidence.

8. Upon an order granting a motion pursuant to this section, the district attorney must file with the court a bill of particulars, reciting every item of information designated in the order, and serve a copy thereof upon the defendant. Pending such filing and service, the proceedings are stayed.

9. At any time before trial the court must, and at any time during trial the court may, upon application of the people and with notice to the defendant and opportunity to be heard, order the amendment of a bill of particulars. Upon permitting such an amendment the court must, upon application of the defendant, order any adjournment of the proceedings or other appropriate action which may, by reason of such amendment, be necessary to accord the defendant adequate opportunity to defend.

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*REPEAL NOTE: Section 200.90 of the Criminal Procedure Law, proposed to be repealed by this act, enables defendants in criminal proceedings to obtain bills of particulars only upon motion to the court. It would be replaced by a new section 200.90 which would provide for the filing of bills of particulars upon demand.

§2. This act shall take effect on the first day of September next succeeding the date on which it shall have become a law.

AN ACT

To amend the criminal procedure law, in relation to the discovery of non-testimonial evidence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 240.40 of the criminal procedure law, as added by chapter four hundred twelve of the laws of nineteen hundred seventy-nine, is amended to read as follows:

2. Upon motion of the prosecutor, and subject to constitutional limitation, *(a)* the court in which an indictment, superior court information, prosecutor's information or information is pending [;(a)] must order discovery as to any property not disclosed upon a demand pursuant to section 240.30, if it finds that the defendant's refusal to disclose such material is not justified [;], and (b) *the court in which an indictment, superior court information, prosecutor's information, information, felony complaint or misdemeanor complaint is pending* may order the defendant to provide non-testimonial evidence. Such order may, among other things, require the defendant to:

(i) Appear in a line-up;

(ii) Speak for identification by witness or potential witness;

(iii) Be fingerprinted;

(iv) Pose for photographs not involving reenactment of an event;

(v) Permit the taking of samples of blood, hair or other materials from his body in a manner not involving an unreasonable intrusion thereof or a risk of serious physical injury thereto;

(vi) Provide specimens of his handwriting;

(vii) Submit to a reasonable physical or medical inspection of his body.

This subdivision shall not be construed to limit, expand, or otherwise affect the issuance of a similar court order, as may be authorized by law, before the filing of an accusatory instrument consistent with such rights as the defendant may derive from the constitution of this state or of the United States.

§2. This act shall take effect immediately.

AN ACT

To amend the criminal procedure law, in relation to examination of prospective jurors

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions one and two of section 270.15 of the criminal law, subdivision one as amended by chapter three hundred one of the laws of nineteen hundred eighty-one and subdivision two as amended by chapter three hundred two of the laws of 1981, are amended to read as follows:

1. If no challenge to the panel is made as prescribed by section 270.10, or if such challenge is made and disallowed, the court must direct that the names of not less than twelve members of the panel be drawn and called as prescribed by the judiciary law. Such persons must take their places in the jury box and must be immediately sworn to answer truthfully questions asked them relative to their qualifications to serve as jurors in the action. The court must [permit both parties, commencing with the people, to] examine the prospective jurors, individually or collectively, regarding their qualifications to serve as jurors. *In conducting this examination, the court must ask the prospective jurors any questions submitted to the court in writing by either party prior to trial, or the court may permit counsel to ask such questions. The court must also ask any additional questions submitted by either party, orally or in writing, during the course of the examination, or the court may permit counsel to ask such questions.* The scope of the examination is within the discretion of the court, and the court may disallow [statements or] questions [by] *of* either party that are irrelevant to the examination or repetitious.

2. Upon the completion of such examination [by both parties], each *party*, commencing with the people, may challenge a prospective juror for cause, as prescribed by section 270.20. If such challenge is allowed, the prospective juror must be excluded from service. After both parties have had an opportunity to challenge for cause, the court must permit them to peremptorily challenge any remaining prospective juror, as prescribed by section 270.25, and such juror must be excluded from service. The people must exercise their peremptory challenges first and may not, after the defendant has exercised his peremptory challenges, make such a challenge to any remaining prospective juror who is then in the jury box. If either party so requests, challenges for cause must be made and determined, and peremptory challenges must be made, within the courtroom but outside of the hearing of the prospective jurors in such manner as not to disclose which party made the challenge. The prospective jurors who are not excluded from service must retain their place in the jury box and must be immediately sworn as trial jurors. They must be sworn to try the action in a just and impartial manner, to the best of their judgment, and to render a verdict according to the law and the evidence.

§2. This act shall take effect immediately.

AN ACT

To amend the criminal procedure law, in relation to the number of peremptory challenges

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 270.25 of the criminal procedure law is amended to read as follows:

2. Each party must be allowed the following number of peremptory challenges:

(a) [Twenty] *Fifteen* for the regular jurors if the highest crime charged is a class A felony, and two for each alternate juror to be selected, *except for good cause shown the court may allow an additional number of peremptory challenges to regular jurors up to but not exceeding a total of twenty.*

(b) [Fifteen] *Twelve* for the regular jurors if the highest crime charged is a class B or class C felony, and two for each alternate juror to be selected, *except for good cause shown the court may allow an additional number of peremptory challenges to regular jurors up to but not exceeding a total of fifteen.*

(c) [Ten] *Eight* for the regular jurors in all other cases, and two for each alternate juror to be selected, *except for good cause shown the court may allow an additional number of peremptory challenges to regular jurors up to but not exceeding a total of ten.*

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

AN ACT

To amend the criminal procedure law, in relation to a trial order of dismissal

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section 290.10 of the criminal procedure law is amended to read as follows:

1. At the conclusion of the people's case or at the conclusion of all the evidence, the court may, except as provided in subdivision two, upon motion of the defendant, *(a)* issue a "trial order of dismissal," dismissing any count of an indictment upon the ground that the trial evidence is not legally sufficient to establish the offense charged therein or any lesser included offense, *or (b) reserve decision on the motion until after the verdict has been rendered and accepted by the court. Where the court has reserved decision and the jury thereafter renders a verdict of guilty, the court shall proceed to determine the motion upon such evidence as it would have been authorized to consider upon the motion had the court not reserved decision. If the court determines that such motion should have been granted upon the ground specified in paragraph (a) herein, it shall enter an order both setting aside the verdict and dismissing any count of the indictment upon such ground. If the jury is discharged before rendition of a verdict the court shall proceed to determine the motion as set forth in this paragraph.*

§2. Subdivision two of section 310.60 of such law is amended to read as follows:

2. When the jury is so discharged, the defendant or defendants may be retried upon the indictment. Upon such retrial, the indictment is deemed to contain all [the] counts which it contained [at the time the previous trial was commenced, regardless of whether any count was dismissed by the court in the course of such trial], *except those which were dismissed or were deemed to have resulted in an acquittal pursuant to subdivision one of section 290.10.*

§3. Subdivision two of section 450.20 of such law is hereby amended to read as follows:

2. [A trial order of dismissal] *An order setting aside a verdict and dismissing an accusatory instrument or a count thereof,* entered pursuant to *paragraph (b) of subdivision one of* section 290.10 or 360.40;

§4. This act shall take effect immediately.

AN ACT

To amend the criminal procedure law, in relation to authorizing the temporary separation of a deliberating jury

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 310.10 of the criminal procedure law, as amended by chapter two hundred fourteen of the laws of nineteen hundred seventy-four, is amended to read as follows:

§310.10 Jury deliberation; requirement of; where conducted.

1. Following the court's charge, the jury must retire to deliberate upon its verdict in a place outside the courtroom. It must be provided with suitable accommodations therefor and must, *except as otherwise provided in subdivision two,* be continuously kept together under the supervision of a court officer or court officers. In the event such court officer or court officers are not available, the jury shall be under the supervision of an appropriate public servant or public servants. Except when so authorized by the court or when performing administerial duties with respect to the jurors, such court officers or public servants, as the case may be, may not speak to or communicate with them or permit any other person to do so.

2. At any time after the jury has commenced its deliberations, the court, with consent of the parties obtained in the absence of the jury, may declare the deliberations to be in recess and may thereupon direct the jury to suspend its deliberations and to separate for a reasonable period of time to be specified by the court, including Saturdays, Sundays and holidays. Before each recess, the court must admonish the jury as provided in section 270.40 and direct it to resume its deliberations when all twelve jurors have reassembled in the designated place at the termination of the declared recess.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

AN ACT

To amend the criminal procedure law, in relation to superseding indictments

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The section heading of section 450.20 of the criminal procedure law is amended to read as follows:

§450.20 Appeal by people to intermediate appellate court; in what cases authorized *as of right.*

§2. Such law is amended by adding a new section 450.25 to read as follows:

§450.25 Appeal by people to intermediate appellate court; in what cases authorized by permission.

If an appeal by the people is not authorized as of right pursuant to section 450.20, the people may appeal from an order of a criminal court denying a motion made pursuant to paragraph (c) of subdivision two of section 450.50 to authorize prosecution, provided that a certificate granting leave to appeal is issued pursuant to section 460.15.

§3. Subdivision two of section 450.50 of the such law is amended to read as follows:

2. The taking of an appeal by the people, pursuant to subdivision eight of section 450.20, from an order suppressing evidence constitutes a bar to the prosecution of the accusatory instrument involving the evidence ordered suppressed, unless and until: *(a) the appeal is withdrawn with the permission of the intermediate appellate court, or (b)* such suppression order is reversed upon appeal and vacated, *or (c) new evidence is discovered which, at the time of submission or argument of the appeal, was not known by the People and could not have been known or produced with due diligence, and the evidence is such that had it been known or available, the prosecutor would not have been authorized to file the statement required by subdivision one; provided, however, that a prosecution may not be permitted pursuant to paragraph (c) unless, after providing defendant notice and an opportunity to be heard, the court in which the accusatory instrument was filed, determines that such newly discovered evidence authorizes such prosecution.*

§4. Subdivision one of section 450.90 of such law is amended to read as follows:

1. Provided that a certificate granting leave to appeal is issued pursuant to section 460.20, an appeal may, except as provided in subdivision two, be taken to the court of appeals by either the defendant or the people from any adverse or partially adverse order of an intermediate appellate court entered upon an appeal taken to such intermediate appellate court pursuant to section 450.10, 450.15, [or] 450.20, *or 450.25.* An order of an intermediate appellate court is adverse to the party who was the appellant in such court when it affirms the judgment, sentence or order appealed from, and is adverse to the party who was the respondent in such court when it reverses the judgment, sentence or order appealed from. An appellate court order which modifies a judgment or order appealed from is partially adverse to each party.

§5. Subdivision four of section 460.10 of such law is amended to read as follows:

4. An appeal by [a defendant] *an appellant* to an intermediate appellate court by permission, pursuant to section 450.15 *or 450.25,* is taken as follows:

(a) Within thirty days after service upon the [defendant] *appellant* of a copy of the order sought to be appealed, the [defendant] *appellant* must make application, pursuant to section 460.15, for a certificate granting leave to appeal to the intermediate appellate court.

(b) If such application is granted and such certificate is issued, the [defendant] *appellant,* within fifteen days after issuance thereof, must file with the criminal court in which the order sought to be appealed was rendered the certificate granting leave to appeal together with a written notice of appeal, or if the appeal is from a local criminal court in a case in which the underlying proceedings were not recorded by a court stenographer, either (i) an affidavit of errors, or (ii) a notice of appeal. In all other respects, the appeal shall be taken as provided in subdivisions one, two and three.

6. This act shall take effect immediately.

AN ACT

To amend the criminal procedure law, in relation to certificates granting leave to appeal to the court of appeals

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (a) of subdivision two of section 460.20 of the criminal procedure law is amended to read as follows:

(a) Where the appeal sought is from an order of the appellate division, the certificate may be issued by (i) a judge of the court of appeals or (ii) a justice of the appellate division [of the department which entered the order sought to be appealed] *who participated in the determination of the order sought to be appealed.*

§2. This act shall take effect immediately, and shall apply to all cases in which the order of the appellate division sought to be appealed was entered on or after such effective date.

AN ACT

To amend the criminal procedure law, in relation to conditional examination of witnesses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 660.20 of the criminal procedure law is amended to read as follows:

§660.20. Examination of witnesses conditionally; grounds for order. An order directing examination of a witness conditionally must be based upon the [ground] *grounds* that there is reasonable cause to believe that such witness [: 1. Possesses] *possesses* information material to the criminal action or proceeding with issue [;], and *that:*

[2. Will] 1. *The witness will* not be amenable or responsive to legal process or available as a witness at a time when his testimony will be sought, either because he is[:

(a) About] *about* to leave the state and not return for a substantial period of time[;] or *he is*

[(b) Physically] *physically* ill or incapacitated*; or*

2. there has been an attempt to induce such person to absent himself from, or otherwise to avoid or seek to avoid appearing or testifying at such action or proceeding.

§2. Subdivision one of section 670.10 of such law, as amended by chapter two hundred ninety-one of the laws of nineteen hundred eighty, is amended to read as follows:

1. Under circumstances prescribed in this article, testimony given by a witness at (a) a *hearing or* trial of an accusatory instrument, or (b) [a hearing upon a felony complaint conducted pursuant to section 180.60, or (c)] an examination of such witness conditionally, conducted pursuant to article six hundred sixty, may, where otherwise admissible, be received into evidence at a subsequent proceeding in or relating to the action involved when at the time of such subsequent proceeding the witness is unable to attend the same by reason of death, illness or incapacity, or cannot with due diligence be found, or is outside the state or in federal custody and cannot with due diligence be brought before the court. Upon being received into evidence, such testimony may be read and any videotape or photographic recording thereof played. Where any recording is received into evidence, the stenographic transcript of that examination shall also be received.

§3. This act shall take effect immediately.

AN ACT

To amend the criminal procedure law, in relation to an identification order

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The criminal procedure law is amended by adding a new article six hundred ninety-five, to read as follows:

Article 695

Identification Order

§695.05 Identification order; definitions.
§695.10 Identification order; when issuable.
§695.15 Identification order; application.
§695.20 Identification order; form and content.
§695.25 Identification order; service.
§695.30 Identification order; failure to comply.
§695.35 Identification order; motion to vacate; modification.
§695.40 Identification order; implementation.
§695.45 *Identification order; return.*
§695.50 Identification order; confidentiality.

§695.05. Identification order; definitions. As used in this article, the following terms have the following meanings:

1. "Identification order" means a criminal court order and process directing a qualified person to conduct an identification procedure.

2. "Identification procedure" means a procedure to obtain:

(a) identification by fingerprints, palm prints, footprints, body measurements, dental impressions, or other reasonable body surface examinations;
(b) specimens or samples of blood, urine, saliva, hair or fingernails, or other bodily substances that can be obtained by comparable methods;
(c) identification material that may be on the surface of the body or under fingernails or that can be obtained by comparable methods; or
(d) witness identification through lineups, photographs, voice samples or handwriting exemplars.

3. "Applicant" means a prosecutor.

4. "Qualified person" means a person qualified by professional training to assure the accuracy of the identification procedure and to prevent injury to the subject of the procedure.

§695.10. Identification order; when issuable. A criminal court may issue an identification order upon an application made in conformity with this article, where there are:

1. reasonable grounds to believe that a crime *specifically designated in the application has been committed; and*

2. reasonable grounds to believe that the results of the identification procedure will be of material aid in the investigation or prosecution of the designated crime.

§695.15. Identification order; application.

1. The application for an identification order may be made ex parte. It must be submitted to a judge of a criminal court, and it must either be in writing, subscribed and sworn to by the applicant, or be made orally by the applicant, under oath, before the issuing judge and recorded verbatim.

2. The application must contain:

(a) the name of the court, the name and title of the applicant and the name or description of the person to be subject to the identification order;
(b) the identification procedure to be conducted, the methods to be used, the approximate length of time of such procedures and the name of the qualified person to conduct such procedure;
(c) the time when and the place where the applicant requests that the identification procedures be conducted; and
(d) a full and complete statement of the facts and circumstances relied upon by the applicant to justify the issuance of an identification order pursuant to section 695.10. Such allegations of fact may be based upon personal knowledge of the applicant or upon information and belief, provided that in the latter event the sources of such information and the grounds of such belief are stated. The applicant may also submit sworn statements of other persons containing allegations of fact supporting or tending to support those contained in the application. Where an accusatory instrument has been filed against the person sought to be subjected to the identification procedure, such instrument may be appended to the application and shall be a sufficient basis for finding that there is probable cause to believe that the designated crime has been committed.

3. An application for an identification order may be made at any time before or after arrest of the person to be subjected to the identification procedure, or before or after the commencement of a criminal action or proceeding against such person; provided, however, no provision of this article shall be construed to abrogate, limit or condition any other lawful means for obtaining identification evidence.

4. In determining an application, the court may examine, under oath, any person whom it believes may possess pertinent information. Any such examination must either be recorded or summarized on the record by the court.

§695.20. Identification order; form and content. An identification order must contain:

1. the name and title of the applicant, the subscription and title of the issuing judge, and the date of issuance;

2. the name of the qualified person who shall conduct the identification procedure and to whom the order shall be addressed;

3. the name and description of the person who is the subject of the identification order;

4. a statement that the presence of such person is required for the purpose of conducting one or more specified identification procedures in order to obtain evidence that will aid in the investigation or prosecution of one or more specified crimes;

5. the time and place of the required appearance of such person;

6. the identification procedures to be conducted, the methods to be used, and the approximate length of time such procedures are expected to take;

7. a direction that such person shall not alter the identifying characteristics covered by the order or destroy any evidence sought to be obtained;

8. a direction that such person will not be subjected to investigative questioning and that he is under no obligation to make any statement during the period of his appearance except for that required for voice identification;

9. a statement that such person may request the person who shall conduct the identification procedure to make a reasonable modification of the order with respect to time, place or method of conducting the identification procedure;

10. a statement that such person may apply to the issuing judge to modify the order with respect to the time, place or method of conducting the identification procedure, or to vacate the identification order where there are insufficient grounds for issuance or where the order is otherwise improperly issued;

11. a statement that such person may have counsel, that counsel may be present during the identification procedure, and that if he is unable to afford to provide counsel, an attorney shall be provided at public expense;

12. a direction that the identification order and all other papers and proceedings relating thereto are confidential and shall not be disclosed to the public; and

13. a statement that a failure to comply with the identification order may be punishable as a contempt of court.

§695.25. Identification order; service.

1. An identification order shall be served upon the person named or described therein by delivery of a *copy to him personally. The application also shall be served upon such person with the identification order unless the issuing judge shall for good cause otherwise direct.*

2. Except as provided by subdivision three, the identification order shall be served upon the person named or described therein within five days from the date of issuance, excluding Saturdays, Sundays, and legal holidays, between the hours of eight o'clock a.m. and eight o'clock p.m.

3. Upon a finding by the issuing judge of reasonable grounds to believe that there exist exigent circumstances, including, but not limited to, reasonable grounds to believe that the person named or described in the affidavit may either flee or alter the identifying characteristics covered by the order or destroy any evidence sought to be obtained, or that the order cannot be served at such time, or cannot be implemented if served at such time, the issuing judge may, by appropriate provision in the order, authorize its service at times other than those specified herein.

4. If the order is not served within the specified period, the issuing judge may, upon a showing of good cause, extend for five additional days, excluding Saturdays, Sundays, and legal holidays, the period within which the order is to be served.

§695.30. Identification order; failure to comply. Failure to comply with an identification order may be punishable as contempt of court or as otherwise provided by law.

§695.35. Identification order; motion to vacate, modification. 1. By motion of the person to be subjected to the identification procedure, the issuing judge may vacate the identification order if he finds that there were insufficient grounds for issuance or that the order was otherwise improperly issued, or that such evidence may practicably be obtained from a law enforcement agency or other public official or agency. Notwithstanding any other provision of law, no person may refuse to participate in an identification procedure on the ground that the results of the procedure may tend to incriminate him, and such person may be compelled to give such evidence without receiving immunity therefor.

2. The issuing authority may modify an identification order with respect to the time, place or method of conducting identification procedures whenever it appears reasonable under the circumstances to do so.

§695.40. Identification order; implementation.

1. Except as provided by subdivision two, the identification order shall be implemented no less than five and no more than fifteen days from the date of issuance, excluding Saturdays, Sundays, and legal holidays, between the hours of eight o'clock a.m. and eight o'clock p.m.

2. Except as provided by subdivision three, upon a finding by the issuing judge of reasonable grounds to believe that there exist exigent circumstances, including but not limited to, reasonable grounds to believe that the person to be subject to the identification procedure may, upon service of order, either flee or alter the identifying characteristics covered by the order or destroy any evidence sought to be obtained, or that delay will adversely affect the probative value of the evidence sought, or that the order cannot be effectively implemented at such time, the issuing judge may, by appropriate provision in the order, authorize its implementation at times other than those specified herein.

3. Upon a finding by the issuing judge of reasonable grounds to believe that any delay in implementation of the identification order would result in the loss of the evidence sought to be obtained, the issuing judge may, by appropriate provision in the order, direct its implementation immediately upon service of the identification order. In such instance, the identification order shall not include therein the statements specified in subdivisions ten and eleven of section 695.20.

4. No person shall be detained pursuant to an identification order longer than is reasonably necessary to conduct the specified identification procedures.

5. No person while detained pursuant to an identification order shall be subject to investigative questioning. A law enforcement officer conducting the identification procedures shall advise the person that he may not be so questioned, that he is not obliged to say anything except as may be required for voice identification, and that any volunteered statements may be used in evidence against him.

6. Notwithstanding any other provision of law, upon the written request or consent of the person subject to the identification order, the qualified person to whom the order is addressed may change the time, place, or method of conducting the identification procedure.

§695.45. Identification order; return.

1. If an identification order is not implemented within the time specified therein, the person who applied for the order shall return the order to the issuing judge on or before the date so specified, together with a report of the reasons why it was not implemented.

2. An officer who has conducted an identification procedure authorized by an identification order or, if such officer is unavailable, another officer acting in his behalf, shall, as soon as practicable, return the order to the issuing judge and a description of the evidence obtained.

§695.50. Identification order; confidentiality. All papers and proceedings relating to the application for the identification order, the identification order, the return, a motion to vacate or modify the identification order, or a motion to compel compliance with the

identification order shall be kept confidential and not disclosed to the public by any person. Upon application of either the person named as the subject of the identification order or the applicant, the court may, if the interests of justice dictate, order disclosure of any such papers and proceedings. Decisions and orders of a court made in the course of any such proceedings may be published, provided their form and content do not identify the subject of the identification application and order.

§2. Subdivision two of section 240.40 of such law, as added by chapter four hundred twelve of the laws of nineteen hundred seventy-nine, is amended to read as follows:

2. Upon motion of the prosecutor, and subject to constitutional limitation, *(a)* the court in which an indictment, superior court information, prosecutor's information or information is pending [; (a)] must order discovery as to any property not disclosed upon a demand pursuant to section 240.30, if it finds that the defendant's refusal to disclose such material is not justified[;], and (b) *the court in which an indictment, superior court information, prosecutor's information, information, felony complaint or misdemeanor complaint is pending* may order the defendant to provide non-testimonial evidence. Such order may, among other things, require the defendant to:

(i) Appear in a line-up;
(ii) Speak for identification by witness or potential witness;
(iii) Be fingerprinted;
(iv) Pose for photographs not involving reenactment of an event;
(v) Permit the taking of samples of blood, hair or other materials from his body in a manner not involving an unreasonable intrusion thereof or a risk of serious physical injury thereto;
(vi) Provide specimens of his handwriting;
(vii) Submit to a reasonable physical or medical inspection of his body.

This subdivision shall not be construed to limit, expand, or otherwise affect the issuance of a similar court order, as may be authorized by law, before the filing of an accusatory instrument consistent with such rights as the defendant may derive from the constitution of this state or of the United States.

§3. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

AN ACT

To amend the criminal procedure law, in relation to a motion to suppress evidence.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (b) of subdivision three of section 710.60 of the criminal procedure law is amended to read as follows:

(b) The sworn allegations of fact do not as a matter of law support the ground alleged [; except that this paragraph does not apply where the motion is based upon the ground specified in subdivision three of section 710.20].

§2. This act shall take effect immediately.

AN ACT

To amend the criminal procedure law, in relation to a waiver of appeal of a denial of a motion to suppress evidence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 710.70 of the criminal procedure law is amended to read as follows:

2. An order finally denying a motion to suppress evidence may be reviewed upon an appeal from an ensuing judgment of conviction notwithstanding the fact that such judgment is entered upon a plea of guilty, *unless, in entering a plea of guilty, the defendant shall, in open court, waive this right to such review.*

§2. This act shall take effect immediately.

AN ACT

To amend the criminal procedure law, in relation to grand jury minutes transferred from a criminal court to the family court

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 725.10 of the criminal procedure law is renumbered subdivision three and a new subdivision two is added to read as follows:

2. Where the minutes of a grand jury proceeding are transferred pursuant to an order of removal, such minutes shall continue to be subject to the requirement of secrecy to the same extent as would apply in a criminal court and the family court is authorized to make any disclosure that a criminal court is authorized to make.

§2. This act shall take effect immediately.

AN ACT

To amend the county law, in relation to compensation and reimbursement of counsel representing indigent defendants

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seven hundred twenty-two-b of the county law, as amended by chapter seven hundred of the laws of nineteen hundred seventy-eight, is amended to read as follows:

§722-b. Compensation and reimbursement for representation. All counsel assigned in accordance with a plan of a bar association conforming to the requirements of section seven hundred twenty-two whereby the services of private counsel are rotated and coordinated by an administrator shall at the conclusion of the representation receive compensation at a rate not exceeding twenty-five dollars per hour for time expended in court or before a magistrate, judge or justice, and fifteen dollars per hour for time reasonably expended out of court, and shall receive reimbursement for expenses reasonably incurred. Where a defendant is charged with a crime which may be punishable by death, compensation shall not exceed one thousand five hundred dollars where one counsel has been assigned, and shall not exceed two thousand dollars where two or more counsel have been assigned. Where a defendant is charged with one or more other felonies, compensation shall not exceed seven hundred fifty dollars. Where a defendant is charged with one or more other crimes, compensation shall not exceed five hundred dollars. For representation pursuant to the provisions of section two hundred sixty-two of the family court act, compensation shall not exceed five hundred dollars. For representation upon the hearing of a motion for a writ of error coram nobis or a motion to vacate judgment or set aside sentence made pursuant to article four hundred forty of the criminal procedure law, compensation shall not exceed five hundred dollars. For representation in the court of appeals on an appeal from a judgment of death, compensation shall not exceed one thousand five hundred dollars where one counsel has been assigned, and shall not exceed two thousand dollars where two or more counsel have been assigned. For representation in an appellate court on an appeal from a judgment of conviction for one or more other felonies, compensation shall not exceed seven hundred fifty dollars. For representation in an appellate court on an appeal in any other criminal action or proceeding, or on any appeal described in section eleven hundred twenty of the family court act or section four hundred seven of the surrogate's court procedure act, compensation shall not exceed five hundred dollars.

For representation on an appeal, compensation and reimbursement shall be fixed by the appellate court. For all other representation, compensation and reimbursement shall be fixed by the court where judgment of conviction or acquittal or order of dismissal was entered. In extraordinary circumstances the trial court may provide for compensation in excess of the foregoing limits and for payment of compensation and reimbursement for expenses before the completion of the representation.

Each claim for compensation and reimbursement shall be supported by a sworn statement specifying the time expended, services rendered, expenses incurred and reimbursement or compensation applied for or received in the same case from any other source.

Where the amount of compensation and reimbursement for counsel assigned purusant to this article has been fixed by a court other than the appellate division or the court of appeals, such assigned counsel or the county attorney for the county responsible for paying such amount or, where the city of New York is responsible for paying such amount, the corporation counsel of such city may, within ten days after receiving notice thereof, apply to the appellate division in the judicial department embracing the county in which the services were rendered for modification of this amount on grounds that it is inadequate or excessive, as the case may be.

No counsel assigned hereunder shall seek or accept any fee for representing the party for whom he is assigned without approval of the court as herein provided.

§2. This act shall take effect on the thirtieth day after it shall have become a law; provided, however, no party may make application to the appellate division to modify the amount of compensation and reimbursement fixed by the court for assigned counsel, pursuant to section seven hundred twenty-two-b of the county law as amended by section one of this act, unless that party first received notice on or after such effective date that such amount had been fixed by the court.

AN ACT

To amend the criminal procedure law, in relation to corroboration before a grand jury

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section 190.65 of the criminal procedure law is amended to read as follows:

1. Subject to the rules prescribing the kinds of offenses which may be charged in an indictment, a grand jury may indict a person for an offense when (a) the evidence before it is legally sufficient to establish that such person committed such offense *provided, however, such evidence is not legally sufficient when corroboration that would be required, as a matter of law, to sustain a conviction for such offense is absent,* and (b) competent and admissible evidence before it provides reasonable cause to believe that such person committed such offense.

§2. This act shall take effect immediately.

AN ACT

To amend the penal law, in relation to an affirmative defense of temporary possession of a weapon

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The penal law is amended by adding a new section 265.06, to read as follows:

§*265.06. Criminal possession of a weapon; affirmative defense. In any prosecution for criminal possession of a weapon, it is an affirmative defense that:*

(1) the defendant found the weapon or confiscated it from a person who possessed it illegally or confiscated it from a person who the defendant reasonably believed had used or might use it in an illegal manner; and

(2) the defendant intended to turn the weapon over to a peace officer or police officer, or to render it permanently inoperable or inaccessible to anyone, and was pursuing such an intent with immediacy and through a reasonable course of conduct; and

(3) the defendant did not use the weapon in an illegal manner.

§2. This act shall take effect on the first day of September next succeeding the date on which it shall have become law.

AN ACT

To amend the criminal procedure law, in relation to providing a pre-trial hearing for alleged involuntary statements to any person

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision three of section 710.20 of the criminal procedure law is amended to read as follows:

3. Consists of a record or potential testimony reciting or describing a statement of such defendant involuntarily made, within the meaning of section 60.45[, to a public servant engaged in law enforcement activity or to a person then acting under his direction or in cooperation with him]; or

§2. This act shall take effect on the first day of September next succeeding the date on which it shall have become a law.

AN ACT

To amend the criminal procedure law, in relation to appeals to the court of appeals

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 450.90 of the criminal procedure law is amended to read as follows:

2. An appeal to the court of appeals from an order of an intermediate appellate court reversing or modifying a judgment, sentence or order of a criminal court may be taken only if:

(a) The court of appeals determines that the intermediate appellate court's determination of reversal or modification was on the law alone or upon the law and such facts which, but for the determination of law, would not have led to reversal or modification; or

(b) The appeal is based upon a contention that corrective action, as that term is defined in section 470.10, taken or directed by the intermediate appellate court was illegal; *or*

(c) The court of appeals determines that the intermediate appellate court's determination of reversal or modification, irrespective of the form of its order, was made as a matter of discretion in the interests of justice based solely upon the intermediate appellate court's review of a question which would otherwise constitute a question of law, but for the lack of protest or preservation pursuant to section 470.05. In such instance, the court of appeals may review the unpreserved or unprotested question of law pursuant to subdivision two of section 470.35 and direct such corrective action as may be appropriate pursuant to section 470.40.

§2. This act shall take effect immediately.

AN ACT

To amend the criminal procedure law in relation to cash bail

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 500.10 of the Criminal Procedure Law is hereby amended by adding a new subdivision, to be subdivision ten-a to read as follows:

10-a. "Order approving cash bail" means an order of a court approving the posting of cash bail where the amount of money designated in the order fixing bail is ten thousand dollars or more.

§2. Section 520.15 of such law is hereby amended to read as follows:

§520.15 Bail and bail bonds; posting of cash bail. Where a court has fixed bail pursuant to subdivision two of section 520.10, at any time after the principal has been committed to the custody of the sheriff pending the posting thereof, cash bail in the amount designated in the order fixing bail may be posted even though such bail was not specified in such order, *provided, however, that where the amount of money designated in the order fixing bail is ten thousand dollars or more, cash bail may not be deposited unless an order approving cash bail has been issued by the court that has fixed bail.* Cash bail may be deposited with (a) the county treasurer of the county in which the criminal action or proceeding is pending or, in the city of New York with the commissioner of finance, or (b) the court which issued such order, or (c) the sheriff in whose custody the principal has been committed. Upon proof of the deposit of the designated amount the principal must be forthwith released from custody, *except that if the amount of money designated in the order fixing bail is ten thousand dollars or more, the principal may not be released from custody unless proof of the deposit of the designated amount is accompanied by proof of the issuance of an order approving cash bail.*

§3. Such law is hereby amended by adding thereto a new section to be section 520.16, to read as follows:

§520.16 Bail and bail bonds; order approving cash bail; examination as to source.

1. When cash bail in the amount of ten thousand dollars or more is to be posted in satisfaction of bail, and the district attorney has not issued a waiver of this requirement, the principal or other person on his behalf who is to post such bail must submit to the court that has fixed bail an application, in writing, for an order approving cash bail. The application must be subscribed and sworn to by the applicant and must state:

(a) The names, residential address and occupation of the applicant and of each person who is providing or furnishing the cash bail sought to be posted; and

(b) All security, all promises of indemnity, and all compensation or promise of compensation received by the applicant and by each person who has provided or furnished the cash bail sought to be posted, and the name, occupation and residential and business addresses of every person who has given any such indemnifying security, compensation, or promise; and

(c) Whether or not the applicant or any person providing or furnishing the cash bail sought to be posted has, within a period of two years prior to the date of the application, provided or furnished cash bail in any other case or cases; and

(d) The title of the criminal action or proceeding involved; and

(e) The offense or offenses which are the subjects of the action or proceeding involved and the status of such action or proceeding; and

(f) The name of the principal and the nature of his involvement in or connection with such action or proceeding.

2. Following the submission of an application for an order approving cash bail, the court may conduct an inquiry into any matter stated or required to be stated in the application, and may also inquire into other matters appropriate to the determination, which include but are not limited to the following:

(a) The source of the money sought to be deposited as cash bail, and whether any such money constitutes the fruits of criminal or unlawful conduct;

(b) The source of any property delivered or agreed to be delivered to the person or persons providing or furnishing the cash bail sought to be posted, and whether any such property constitutes the fruits of criminal or unlawful conduct;

(c) The background, character and reputation of any person who has indemnified or agreed to indemnify the person providing or furnishing the cash bail sought to be posted; and whether any such indemnitor has within a period of two years prior to the date of the application, given indemnification or security for like purpose in any other case or cases in which the amount of money designated in the order fixing cash bail was ten thousand dollars or more.

3. A court may not issue an order approving cash bail unless and until the district attorney has been heard in the matter, or after knowledge or notice of the application and reasonable opportunity to be heard, has failed to appear at the proceeding or has otherwise waived his right to do so. Upon the inquiry conducted pursuant to subdivision two, the court may examine, under oath or otherwise, any person who may possess material information. The district attorney has the right to attend such inquiry, to call witnesses and to examine any witness in the proceeding. The court may, upon application of the district attorney, adjourn the proceeding for a reasonable period to allow him to investigate the matter. At the conclusion of the inquiry the court must issue an order either approving or disapproving cash bail.

§4. This act shall take effect on the first day of September next succeeding the date on which it shall have become law.

AN ACT

To amend the criminal procedure law, in relation to applications for a search warrant

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section 690.35 of the criminal procedure law is amended to read as follows:

1. An application for a search warrant [must] *may* be in writing [and] *or oral. If in writing, it* must be made, subscribed and sworn to by a public servant specified in subdivision one of section 690.05. *If oral, it must be made by such a public servant and sworn to and recorded in the manner provided in section 690.36.*

§2. Such law is amended by adding a new section 690.36, to read as follows:

690.36 Search warrants; special provisions governing oral applications therefor.

1. An oral application for a search warrant may be communicated to a judge by telephone, radio or other means of electronic communication.

2. Where an oral application for a search warrant is made, the applicant therefor must identify himself and the purpose of his communication. After being sworn as provided in subdivision three of this section, the applicant must also make the statement required by *paragraph (b) of subdivision two of section 690.35 and provide the same allegations of fact required by paragraph (c) of such subdivsion; provided, however, persons other than the applicant may also provide some or all of such allegations of fact directly to the court. Where appropriate, the applicant may also make a request specified in subdivision three of section 690.35.*

3. Upon being advised that an oral application for a search warrant is being made, a judge shall place under oath the applicant and any other person providing information in support of the application. Such oath or oaths and all of the remaining communication must be recorded, either by means of a voice recording device or verbatim stenographic or verbatim longhand notes. If a voice recording device is used or a stenographic record made, the judge must have the record transcribed, certify to the accuracy of the transcription and file the original record and transcription with the court. If longhand notes are taken, the judge shall subscribe a copy and file it with the court.

§3. Section 690.40 of such law is amended by adding a new subdivision three to read as follows:

3. When a judge determines to issue a search warrant based upon an oral application, the applicant therefor shall prepare the warrant in accordance with section 690.45 and shall read it, verbatim, to the judge.

§4. Subdivision one of section 690.45 of such law is amended to read as follows:

1. The name of the issuing court and, *except where the search warrant has been obtained on an oral application,* the subscription of the issuing judge; and

§5. Subdivisions two, three, four, five, six and seven of section 690.45 of such law are renumbered to be three, four, five, six, seven and eight and a new subdivision two is added to read as follows:

2. Where the search warrant has been obtained on an oral application, it shall so indicate and shall state the name of the issuing judge and the time and date on which such judge directed its issuance.

§6. This act shall take effect sixty days after it shall have become a law.

V. Conclusion

The Committee will continue to meet regularly to study and discuss all significant proposals affecting criminal law and procedure. We express our gratitude to the Chief Administrative Judge and the Judicial Conference for their support in achieving our shared objective of improving the criminal law.

Respectfully submitted,

THE ADVISORY COMMITTEE ON
CRIMINAL LAW AND PROCEDURE

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1982 Report

of the

Family Court Advisory And Rules Committee

to the

Chief Administrator of the Courts

of the

State of New York

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The Family Court Advisory and Rules Committee is designated and its members appointed pursuant to Section 212 (b) of the Family Court Act and Section 80.1 (b) (x) of the Administrative Delegation of the Chief Judge of the State of New York.

Its mandate is to review and draft official forms for use in Family Court proceedings and to review and draft rules affecting Family Court proceedings, subject to approval and promulgation by the Chief Administrator of the Courts or the Chief Judge, as appropriate. In addition, the Committee when so requested, reviews and drafts legislation affecting Family Court proceedings or involving family law for comment or introduction to the Legislature. The Committee has also been mandated to advise the Chief Administrator on matters of general policy affecting administration in the Family Courts.

The Committee, therefore, in keeping with this broadranging mandate and its past practices, continued during the year 1981 to review and draft legislation, to review and propose amendments to rules and to review, revise and draft official Family Court forms, as required.

Membership

The members of the Committee during the past year were: Family Court Judges Donald J. Corbett, Jr., Chairman; Arthur J. Abrams; Gene L. Catena; Daniel J. Donahoe; Hugh Ross Elwyn; William L. Kellick, Jr.; Shirley Wohl Kram; Edward J. McLaughlin; Saul Moskoff, who resigned and has been replaced by Nicholas L. Pitaro; Richard M. Palmer; Aileen Haas Schwartz; Jack Turret; Alfred J. Weiner; and Supreme Court Justices Robert H. Wagner and Joseph B. Williams. Non-voting members of the Committee were Richard J. Comiskey, Esq., who resigned, and William G. O'Brien, Esq.. Frank Boccio, Esq., served as consultant.

Hearing Examiner Report

As noted in the 1981 Annual Report of this Committee, the members engaged in a comprehensive review of the use of hearing examiners in support proceedings as authorized by section 439 of the Family Court Act. The practice of using hearing examiners was instituted in January 1978. Since the procedure outlined in the statute required implementation by rule, Committee review was undertaken as part of its continuing responsibility for the drafting and re-examination of rules affecting Family Court. It was particularly timely since it coincided with a major revision of the Chief Judge's and Chief Administrator's Rules.

The Committee designed, distributed and analyzed written questionnaires sent to the fifty-nine Family Court judges sitting in the twelve counties in which the use of hearing examiners has been authorized. In April of 1981, a report based on the Committee's analysis and discussion, containing documentation of the information upon which it was based, was submitted by Hon. Donald J. Corbett, Jr., Chairman to the Chief Administrator.

A number of the recommendations have already been implemented. Former Appellate Division Rules (22NYCRR 635.10 and Part 1031) were repealed. A new Part 31 has been added to the Rules of the Chief Judge of the State of New York, replacing former 22NYCRR Part 34 which dealt with hearing examiners. In addition, new Part 113 of the Rules of the Chief Administrator of the Courts was promulgated. In doing so, specific recommendations made by the Committee were incorporated in these new Rules.

As will be described in greater detail hereafter, existing official Family Court forms prescribed for use when cases are referred to hearing examiners were reviewed and revised.

Review of proposed Family Court Clerk's Procedures Manual

A procedures manual for use statewide by Family Court Clerks was drafted by a working committee consisting of Family Court Clerks in conjunction with the National Center for the State Courts, which acted as consultants. The proposed manual is one of several being prepared for use by the clerks of each of the other courts in the unified court system with the exception of the Town and Village Courts.

Drafts of the proposed Family Court Clerk's manual were reviewed for legal accuracy and administrative policy and a line-by-line commentary was submitted.

Temporary State Commission to Recodify the Family Court Act

The Committee, aware of the significance of the sweeping impact which is likely to result from the work of the Temporary State Commission to Recodify the Family Court Act created by the legislature in 1979, has now prepared and forwarded to the Chief Administrator an outline of issues forming potential areas for study by the Commission. Judge Evans forwarded a copy to Hon. George Friedman, Chairman of the Temporary State Commission in July 1981.

The Committee and the Chief Administrator engaged in this analysis and compilation out of a sense of responsibility to share with the Temporary Commission the collective experience of those involved in the administration of, and adjudicatory process in, the Family Court of the State of New York.

Forms for Affidavits of Financial Disclosure Implementing Section 236 D.R.L.

Upon the request of the Chief Administrator, the Family Court Advisory and Rules Committee reviewed and made recommendations concerning a proposed new form drawn to implement the requirement of Section 236, Part B of the Domestic Relations Law.

Legislation passed in 1980 reflected sweeping changes in the concepts upon which cases involving allocation of responsibility for spousal support and distribution of marital assets upon dissolution of marriages would henceforth be based. Some aspects were necessitated by the United States Supreme Court decision in *Orr v. Orr*, 440 U.S. 952 (1979), which eliminated gender of a spouse as a basis for a determination of support or distribution of assets. In addition, the concept of equitable distribution, new to New York State law, was enacted.

It was anticipated that the newness of the statute and its resulting procedural complexities would engender delay in the disposition of these cases in Supreme and Family Court. A form of Affidavit of Financial Disclosure required by statute was drawn in consultation with clerks and judges sitting in matrimonial parts in the Supreme Court. This form was submitted to this Committee for review, as well.

The revised form, which is expected to be part of new Chief Administrator's Rules, is also to be included among the revised Uniform Family Court forms which will be described more fully hereafter. This form would be for uniform use in support proceedings in Family Courts and in matrimonial proceedings in Supreme Courts throughout the state.

Legislation

The Committee, under the direction of Judge Alfred J. Weiner, Chairman of the Subcommittee on Legislation reviewed all bills introduced in the Legislature affecting Family Court proceedings and family law. In the past year, 118 memoranda commenting on such legislation were filed in the Legislature.

In addition, the members of the Committee assisted the Office of Court Administration in the drafting of six bills for introduction at the request of that Office. Of these, one, Chapter 68 of the Laws of 1981, was enacted into law, as follows:

Chapter 68. This chapter repeals former section 545 of the Family Court Act and replaces it with a new section 545 to provide that in paternity proceedings the court may order each parent to contribute according to his or her means to the support of a child who is the subject of the proceedings. This amendment was required to correct an omission in Chapter 281 of the Laws of 1980 which was passed to render all support statutes gender neutral in conformity with the United States Supreme Court decision of *Orr v. Orr*, 440 U.S. 258 (1979).

The following bills, drafted by the Committee and offered for introduction by the Office of Court Administration have not as yet been passed. All will be before the legislature in the present legislative session. Some are being amended.

(1) S.6585 - A.7678 This bill would repeal section 236 of the Family Court Act and section 4406 of the Education Law and amend section 232(b) of the Family Court Act and section 4401 of the Education Law to remove from Family Courts its residual jurisdiction over the special educational needs of handicapped children. The measure would place full responsibility for the educational needs of all handicapped children in the State Department of Education;

(2) S.1935 - A.7511 This bill which would amend sections 724-b, 734 and 753-b of the Family Court Act dealing with the destruction of fingerprints of certain juveniles. This measure is being re-introduced with a revised memorandum of support to reflect the recent developing case law in this area.

(3) S.5222 - A.7711 This bill would amend section 756 of the Family Court Act to set time and procedural requirements for the filing of extension of placement applications in Article 7 proceedings.

(4) S.5223-A - A.7510 This bill would amend section 1055 of the Family Court Act to set time and procedural requirements for the filing of extension of placement applications in Article 10 proceedings. Additional amendments to this bill as filed have just been offered, after consultation with the Juvenile Rights Division of New York City. The attached copy contains the most recent amendments proposed.

(5) (Not yet in print) A bill which would amend section 1022 and 1024 of the Family Court Act to make explicit the responsibility of a person or agency removing a child from its home prior to a court hearing in child abuse proceedings. This bill incorporates certain provisions contained in a stipulation of settlement entered into between the parties in the case of *Ormsby v. Blum*, #78-531, U.S.D.C. Western District of New York, (1981).

Rules

The Subcommittee on Rules, under the chairmanship of Judge Aileen Haas Schwartz, reviewed Section 2501.2 of the Uniform Family Court Rules, entitled Privacy of Proceedings in the Family Court, in light of recent United States Supreme Court decisions relating to public or media access to court proceedings.

The Committee will continue to review all the Uniform Family Court Rules (22 NYCRR Part 2500) and will propose any changes which may have become necessary or desirable because of recent legislation or case law. In addition, this review is particularly timely and will be coordinated with the current review and revision taking place in the Office of Court Administration, of all court rules.

Forms

The Subcommittee on Forms, under the chairmanship of Judge Gene L. Catena and with the particular assistance of William G. O'Brien, Esq. and Frank Boccio, Esq., has been engaged in a systematic review and re-draft of all officially prescribed Family Court forms now in use.

Before the end of March, 1982 approximately 86 forms will be distributed to all Family Courts. Approximately 30 more will follow shortly thereafter, completing this comprehensive review and revision. Each form has been reviewed by the full Committee and will be prescribed by an Administrative Order of the Chief Administrative Judge by virtue of his authority under Section 214 of the Family Court Act and the Chief Judge's Administrative Delegation.

When this is completed, the Committee will start a review of all adoption forms, completing thereby forms used in all Family Court proceedings.

Dated: February 2, 1982

Respectfully submitted,

THE FAMILY COURT ADVISORY
AND RULES COMMITTEE

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Hon. Gene L. Catena
Hon. Daniel J. Donahoe
Hon. Hugh Ross Elwyn
Hon. William J. Kellick, Jr.
Hon. Shirley Wohl Kram
Hon. Edward J. McLaughlin
Hon. Nicholas L. Pitaro
Hon. Richard M. Palmer
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Hon. Jack Turret
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